

SMALL BUSINESS REGULATORY REVIEW BOARD

Department of Business, Economic Development & Tourism (DBEDT) 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

AGENDA Wednesday, January 27, 2016 ★ 1:00 p.m. No. 1 Capitol District Building 250 South Hotel Street - Conference Room 436

Call to Order

I.

II. Approval of December 9, 2015 Meeting Minutes

III. New Business

- A. Discussion and Action on Proposed Amendments and Compilation to Hawaii Administrative Rules (HAR) Title 12, Subtitle 8, Part 11, Elevators and Related Systems, promulgated by Department of Labor and Industrial Relations, as follows - and attached and incorporated as Exhibit 1:
 - a. Chapter 229, General, Administrative, and Legal Provisions; and
 - b. Chapter 230.1, Elevators, Escalators, Dumbwaiters, Moving Walks, and Material Lifts and Dumbwaiters with Automatic Transfer Devices
- B. Discussion and Action on Proposed Amendments to the Rules of Practice and Procedure of the County of Kauai Public Access, Open Space, and Natural Resources Preservation Fund Commission, by Adding New Chapter V.
 Report Process, Relating to the Process of Receiving Proposals, and Analyzing and Recommending Land or Property Entitlements for County Council Approval, promulgated by the County of Kauai Public Access, Open Space, and Natural Preservation Fund Commission – attached and incorporated as Exhibit 2
- C. Discussion and Action on Proposed Amendments to HAR Title 3, Chapter 181, **International Energy Conservation Code**, 2015 Edition, promulgated by Department of Accounting and General Services – *attached and incorporated as Exhibit 3*
- D. Discussion and Action on Proposed Amendments to HAR Title 16, Chapter 53, Fees, promulgated by Department of Commerce and Consumer Affairs (DCCA) attached and incorporated as Exhibit 4
- E. Discussion and Action on Proposed Amendments to HAR Title 16, Chapter 14, **Insurance Holding Company System**, promulgated by DCCA – *attached and incorporated as Exhibit 5*

IV. Old Business

 A. Discussion and Action on the <u>Small Business Statement After Public Hearing</u> and Proposed New HAR Title 13, Chapter 86.1, **Sea Cucumber** Management, promulgated by Department of Land and Natural Resources – *attached and incorporated as Exhibit 6*

David Y. Ige Governor

Luis P. Salaveria DBEDT Director

Members

Anthony Borge Chairperson Oahu

Harris Nakamoto Vice Chairperson Oahu

Barbara Bennett 2nd Vice Chairperson Kauai

Kyoko Y. Kimura *Maui*

Robert Cundiff Oahu

Nancy Atmospera-Walch Oahu

> Phillip Kasper Maui

Garth Yamanaka Hawaii

Director, DBEDT Voting Ex Officio

- B. Discussion and Action on the <u>Small Business Statement After Public Hearing</u> and the Proposed Amendments, promulgated by the Board of Water Supply, County of Kauai, as follows, *and attached and incorporated as Exhibit 7*
 - a. Section VII, "Facilities Reserve Charge," Part 4, **Fixing Rates for the Furnishing of Water Service in the County of Kauai**;
 - b. New Part 5, Facilities Reserve Charge in the County of Kauai;
 - c. Section III, "Facilities Reserve Charge," Part 3, Rules and Regulations for Establishing Standards for Subdivision Water Systems
- C. Update on Meeting with Department of Transportation regarding Discussion on Whether the Current Airport Pick-up Fees at Hawaii International Airport are Consistent with HAR Title 19, Chapter 38.1, **On-Demand Taxi Service at Public Airports**, HAR Chapter 20.1, **Commercial Services at Public Airports**, and are in accordance with Act 163, Session Laws of Hawaii 1994; and discussion of improving upon dispatching taxi service for passengers through operational and enforcement of rules and procedures to upgrade the level of customer service - *attached and incorporated as Exhibit 8*

V. Administrative Matters

- A. Discussion and Action on the following:
 - a. Monthly e-Newsletter
 - b. Board Members' Terms Expiring June 2016
 - c. Update on Board's Budget Request for the 2016 Legislative Session
 - d. June Board Meeting Date Change
 - e. Upcoming Board meetings to include State Departments' Small Business Offices

VI. Legislative Matters

- A. Discussion, Status, and Action on the following:
 - a. House Bill 774 HD1 SD1 "Relating to Small Business" Makes an appropriation to the Department of Business, Economic Development, and Tourism for the Small Business Regulatory Review Board to hire additional staff.
 - b. Senate Bill 1188 "Relating to Small Business" Makes an appropriation to the Department of Business, Economic Development, and Tourism for the Small Business Regulatory Review Board to acquire additional staff.
 - c. Senate Bill 1236, SD1 "Relating to the Hawaii Public Procurement Code" – Establishes the small business office to administer the state small business program. Establishes the state small business program and transfers certain duties of the chief procurement officer to the small business office, which under the state small business program may, among other things, train and assist small businesses in doing business in the State, encourage procurement from small businesses, and establish a goal of awarding twenty percent of the State's annual purchasing expenditures to small businesses; requires the small business, "establish set-asides for small businesses, and encourage the use of small businesses as subcontractors for large government contracts.

VII. Next Meeting: Scheduled for Wednesday, February 17, 2016, at 1:00 p.m., Conference Room 436, Capitol District Building, Honolulu, Hawaii

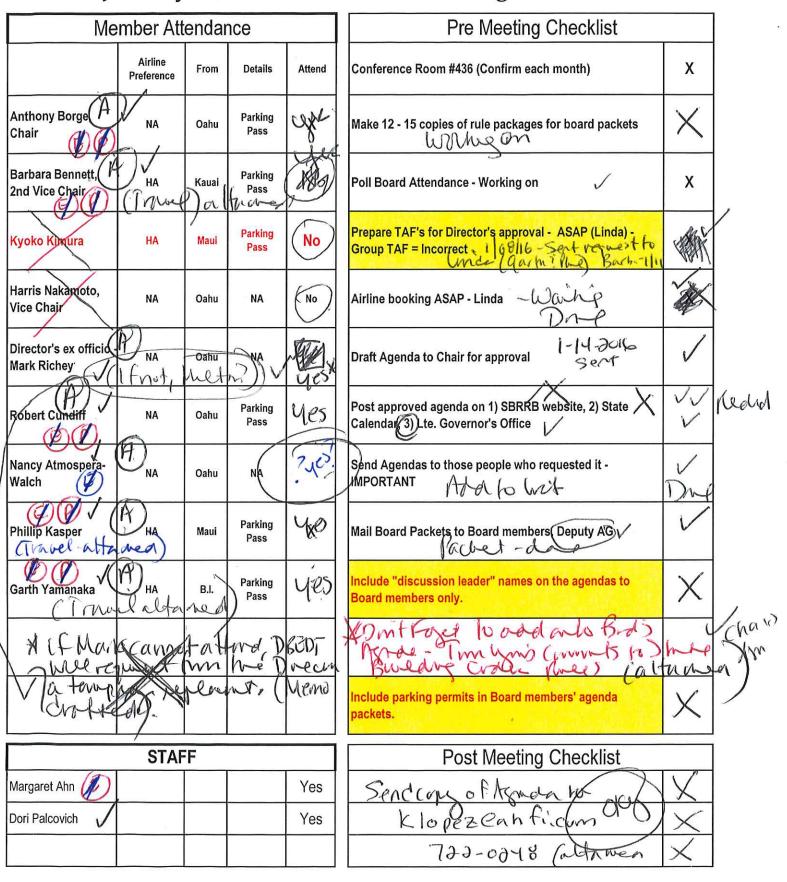
VIII. Adjournment

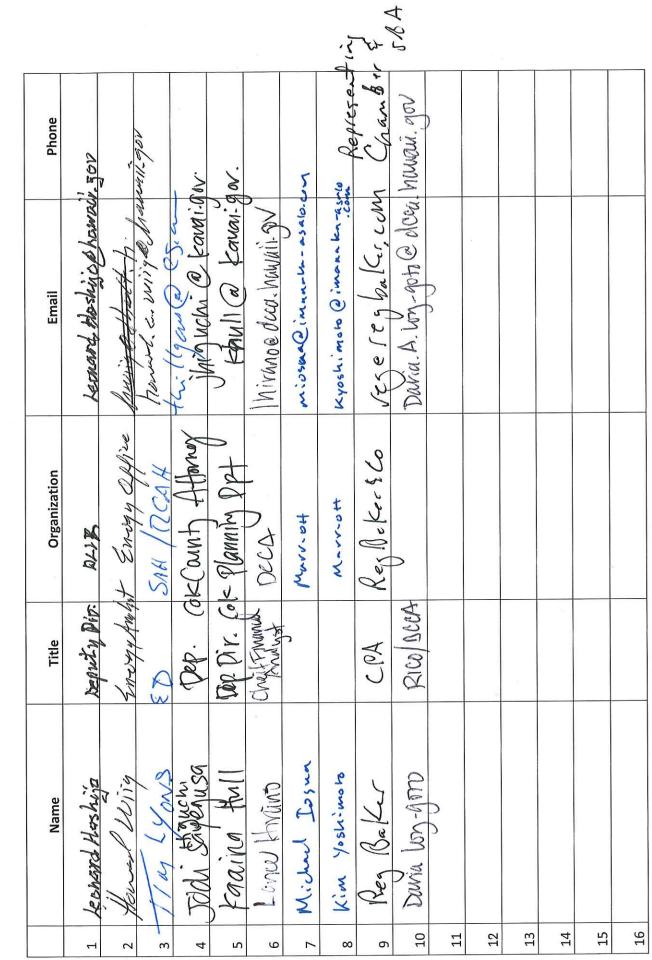
If you require special assistance or auxiliary aid and/or services to participate in the public hearing process (i.e., sign language, interpreter, wheelchair accessibility, or parking designated for the disabled), please call (808) 586-2594 at least three (3) business days prior to the meeting so arrangements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



January 27, 2016 ~ SBRRB Meeting Checklist

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Visitors Sign-in-Sheet – Small Business Regulatory Review Board – January 27, 2016



9002 San Marco Court Orlando, Florida 32819 (407) 418-7271

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TO:	Anthony B. Borge, Chairperson Small Business Regulatory Review Board (SBRRB) Department of Business, Economic Development & Tourism
FROM:	Robin Suarez, Vice President/General Counsel, Starwood Vacation Ownership
RE:	Comments and Concerns on Proposed Amendments to Hawaii Administrative Rules (HAR) Title 16, Chapter 53, Fees, promulgated by Department of Commerce and Consumer Affairs (DCCA)
DATE:	Wednesday, January 27, 2016 1:00 p.m., Conference Room 436, No. 1 Capitol District Building

Starwood Vacation Ownership ("Starwood") appreciates the opportunity to offer comments on the proposed amendments to HAR Title 16, Chapter 53. We are concerned with the proposed automatic 16% fee increase every 7 years to fees for licenses and the compliance resolution fund. We understand the State's need to address regulatory costs over time, however, we question the methodology of automatic increases without taking into account existing economic conditions or actual staffing and resource needs of the agency. There are no assurances that such increases will result in improved or enhanced services.

Starwood does not object to the consolidation of certain fees and increases to other fees, as long as the industry will see some improvements in the resources available to the timeshare administration office. For example, we would support using fees assessed on our industry to provide more staff and/or resources to help improve processing times of various filings. We also acknowledge the need for DCCA to have and use updated technology to improve efficiencies.

Thank you again for the opportunity to provide comments.



То:	Anthony B. Borge, Chairperson Small Business Regulatory Review Board (SBRRB) Department of Business, Economic Development & Tourism
Date: Time: Place:	Wednesday, January 27, 2016 1:00 p.m. Conference Room 436, No. 1 Capitol District Building
From:	Blake Oshiro, Executive Director, ARDA-Hawaii
Re:	Comments and Concerns on Proposed Amendments to Hawaii Administrative Rules (HAR) Title 16, Chapter 53, Fees, promulgated by Department of Commerce and Consumer Affairs (DCCA)

ARDA-Hawaii is the local chapter of the American Resort Development Association, the national timeshare trade association. The state's timeshare units account for 13 percent of the state's visitor lodging inventory and thousands of jobs. Our Hawai'i members include Interval International, Hyatt Vacation Ownership, Hilton Grand Vacations, Wyndham Vacation Ownership, RCI, Marriott Vacation Club, Aulani Disney Resort and Starwood Vacation Ownership.

ARDA-Hawaii's testimony on the proposed amendments to HAR Title 16, Chapter 53 focuses on two main issues: (1) the automatic 16% fee increase every 7 years; and (2) the proposed increases under HAR § 16-53-40.3.

HAR § 16-53-7 proposes:

Fees for licenses as defined in section 436B-2 Hawaii Revised Statues license renewals, and the compliance resolution fund, shall increase by sixteen percent which shall be rounded up to the nearest whole number every seven years. The first increase of the fees pursuant to this rule shall take effect on January 1, 2023.

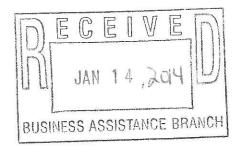
While we can understand the process to raise fees is lengthy, there are no assurances that such increases will result in improved or enhanced services. Automatic increases potentially decrease accountability and do not incentivize an agency to be responsive if they know that regardless of their handling of the regulated industry's issues, their fees will still increase. Moreover, in particular to the timeshare industry, it is very difficult to ascertain the impact the proposed increases may have on timeshare development. Such increases, when compounded within a 30 year period, would be approximately 80%. Although ARDA supports the state's

need to address regulatory costs over time, ARDA is very concerned about the proposed method of septennial increases of 16 percent.

As to the particular increases proposed in HAR § 16-53-40.3, ARDA-Hawaii does not object to the consolidation of certain fees and increases to other fees so long as the industry will see some tangible results and improvements to the Time Share Administration office through the provision of additional support and/or resources . It is our understanding that the Time Share Administration office is small and is constrained in terms of staff and even space. As such, we believe that using fees assessed on our industry to provide more staff and/or resources, could help to improve processing times of our various filings. If that is the case, then ARDA-Hawaii does not object to the increases. However, if the increases will not result in any tangible benefit to the industry, then at that point, we will oppose these fee increases.

Thank you for the opportunity to provide comment.

Exhibit 1



"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	Variances
§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 Scope and application. This part contains general and administrative rules and legal provisions which apply to 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 6/30/14; comp] (Auth: HRS §394-4) (Imp: HRS §397-4)

\$12-229-2 Definitions. As used in this part:

"Alteration" means any change 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/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, or kindred equipment.

"ASME" means American Society of Mechanical Engineers.

"ASME A17.1" means 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.

"ASIM-F24" means ASIM-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.

"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 any amusement ride, elevator, or kindred equipment or structure inspected pursuant to chapter 397, HRS.

"Department" means the department of labor and industrial relations, State of Hawaii.

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

"Discrepancy" means the non-conformance to codes, standards, rules, or regulations required by this part.

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

"Elevator" means a hoisting and lowering mechanism equipped with a car that moves 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 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 this chapter.

"HAW" means the registration number assigned to an elevator and kindred equipment or amusement ride by the AHJ.

"Hawaii Revised Statutes" or "HRS" means laws enacted by the Hawaii state legislature.

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

"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 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, 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, 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.

"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 <u>elevator</u> inspector" means an elevator inspector [appointed by the director and] employed by the department holding a valid certificate of competency issued by the department[.] <u>and</u> <u>a Qualified Elevator Inspector certification that meets the</u> <u>criteria of the American Society of Mechanical Engineers and the</u> <u>standards for the qualification of elevator inspectors of the</u> <u>American National Standards Institute.</u> 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.

"Shall" means mandatory.

"Unsafe" means potential exposure to a recognized hazard.

"Violation" means the failure to comply with any citation, notice, or order of the department, or rule or standard promulgated under chapter 397, HRS. [Eff 6/19/00; am and comp 6/30/14; am and comp] (Auth: HRS §§397-4, 397-6) (Imp: HRS §§397-4, 397-6)

\$12-229-3 REPEALED. [R 6/30/14]

\$12-229-3.1 <u>Codes incorporated and adopted by reference.</u> 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.

- 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.
- 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) NFPA 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) NFPA 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

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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 6/30/14; comp (Auth: HRS §397-4) (Imp: HRS §397-4)

\$12-229-4 REPEALED. [R 6/30/14]

\$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, or amusement <u>ride</u> 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 <u>elevator</u> 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 amusement ride owner shall register the new apparatus or an alteration by submitting an application for review and registration.

An application on a form [prescribed] <u>provided</u> by the department shall be submitted and approved prior to commencement of work. The application shall include:

- Applicant's name (<u>elevator</u> 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;

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- (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] payment 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,] January 1, 2017, 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,] January 1, 2017, 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 or electronic 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

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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 <u>near the elevator, kindred equipment, or amusement ride</u> 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 (HAW) assigned by the department painted on or permanently attached to both the [driving mechanism] <u>car top</u> <u>crosshead</u> and the controller. The owner is responsible for having the [registration] HAW number painted on or attached to the device or equipment, and ensuring that the number remains legible. [Eff and comp 6/30/14; am and comp] (Auth: HRS \$397-4) (Imp: HRS \$397-4)

\$12-229-5 REPEALED. [R 6/30/14]

\$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] related systems shall be valid [for one year,] per the schedules in Exhibit C, titled "Inspection and Test Intervals (In Months)", dated January 1, 2017, which is made a part of this chapter and located at the end of this chapter, unless revoked sconer, 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:

- The safe operation and proper maintenance of elevators and [kindred equipment] <u>related systems</u> 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 and not readily accessible elevators and related systems 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,] <u>January 1, 2017</u>, which is made a part of this chapter and located at the end of this chapter.

The permit to operate shall indicate the type of (d)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, 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.] For new or altered elevators, after the effective date of these rules, a copy of 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:

- 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 1/4inch 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.

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(f) Exhibit C, titled "Inspection and Test Intervals (In Months)", dated [July 1, 2012,] <u>January 1, 2017</u>, 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.
- 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 6/30/14; am and comp] (Auth: HRS §397-4) (Imp: HRS §397-4)

\$12-229-6 REPEALED. [R 6/30/14]

\$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,] January 1, 2017, 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,] January 1, 2017, 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] <u>a special or dedicated</u> 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,] special, dedicated, 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] <u>January 1,</u> 2017, 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.

fees.

(b) Departmental installation and alteration permit and test

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 - (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,] <u>January</u> <u>1, 2017</u>, 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,] January 1, 2017, 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,] January 1, 2017, 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 each instance requiring a building plan review, the department shall charge a fee in accordance with Exhibit A, titled "Elevator and Kindred Equipment Installation and Alteration Fees", dated January 1, 2017, which is made a part of this chapter and located at the end of this chapter.
- [(5)] (6) 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)] (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.
- (c) Amusement rides, fees.
- The fee for an inspection of an amusement ride shall be [\$100.] \$200.
- (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.
- Whenever the requester fails to pay the fees required (5)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 6/30/14; am and comp] (Auth: HRS \$397-4) (Imp: HRS \$397-5)

\$12-229-7 REPEALED. [R 6/30/14]

\$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.

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- (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,] January <u>1, 2017</u>, 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 thirtysix months.
 - (B) Personnel hoists shall be load tested at intervals of [six] three 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] that is [out-of-service] 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,] <u>chapter</u> <u>12-250</u> 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 6/30/14; am and comp] (Auth: HRS §397-4) (Imp: HRS §397-4)

\$12-229-8 REPEALED. [R 6/30/14]

\$12-229-8.1 Rights and enforcement. (a) Rights.

 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.
- Whenever the department finds that the construction of (2)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 6/30/14; comp) (Auth: HRS §397-4) (Imp: HRS §§397-4, 397-6, 397-8)

\$12-229-9 REPEALED. [R 6/30/14]

\$12-229-9.1 <u>Complaints</u>. (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 6/30/14; comp] (Auth: HRS §397-4) (Imp: HRS §397-7

\$12-229-10 REPEALED. [R 6/30/14]

\$12-229-10.1 <u>Reporting of accidents.</u> (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

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<u>significant</u> 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)] <u>a person or</u> persons.

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)] victim or victims;

- (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 6/30/14; am and comp] (Auth: HRS §397-4) (Imp: HRS §397-4) \$12-229-11 REPEALED. [R 6/30/14]

\$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 6/30/14; comp] (Auth: HRS §397-4) (Imp: HRS §§397-4, 397-6)

\$12-229-12 REPEALED. [R 6/30/14]

\$12-229-12.1 <u>Violations and penalties</u>. (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] <u>out of service</u> 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 [thatcould] 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 6/30/14; am and comp] (Auth: HRS §397-4) (Imp: HRS §397-8)

\$12-229-13 REPEALED. [Eff 6/19/00; R 6/30/14]

\$12-229-13.1 <u>Review and appeal.</u> (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 6/30/14; comp] (Auth: HRS \$397-4) (Imp: HRS \$397-9)

\$12-229-14 REPEALED. [R 6/30/14]

\$12-229-14.1 <u>Trade secrets</u>. 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

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of carrying out chapter 397, HRS. [Eff and comp 6/30/14; comp] (Auth: HRS §397-4) (Imp: HRS §397-110

\$12-229-15 REPEALED. [R 6/30/14]

\$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)] <u>HAW number</u>, 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 6/30/14; am and comp] (Auth: HRS §397-4) (Imp: HRS §397-4)

\$12-229-16 REPEALED. [Eff 6/19/00; R 6/30/14]

\$12-229-16.1 <u>Variances.</u> (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 <u>or post notice</u> <u>on the department's website</u> 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.

- 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.
- 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 6/30/14; am and comp] (Auth: HRS \$397-4) (Imp: HRS \$397-4)
- \$12-229-17 <u>Records.</u> 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 6/30/14; comp] (Auth: HRS \$397-4) (Imp: HRS \$397-4)

EXHIBIT A

ELEVATOR AND KINDRED EQUIPMENT INSTALLATION AND ALTERATION FEES

[July 1, 2012] January 1, 2017

Alterations ¹ :	
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 ca	r
interior modernizations)	\$300
Involving more than two parts, or component	S
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 Installations ²	
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] \$450
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

Building plan reviews

\$200

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] January 1, 2017

Permit and Renewal Inspection Fees:	
Dumbwaiter or material lift	[\$140] \$150
Escalator, moving walk, or moving ramp	[\$150] \$200
	[\$150] \$200
Hydraulic elevator - holed	[\$150] \$250
Hydraulic elevator - holeless	
	[\$200] <u>\$250</u>
Hydraulic elevator - roped holeless	\$300
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] \$300
Temporary Use Permit (construction car)	[\$150] \$300
	A75,9 89 8, -
Safety, load or internal test (witness fees):	
Category 3 test	[\$200] \$300
Category 5 test	[\$300] \$400
Category 5 with counterweight test	\$500
Escalator, internal	[\$100] \$400
Escarator, internar	[9100] <u>9400</u>

Permit renewal and witness fess 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.

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EXHIBIT C

INSPECTION AND TEST INTERVALS (IN MONTHS)

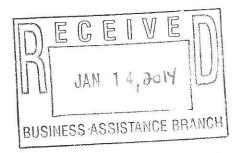
[July 1, 2012] January 1, 2017

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] <u>12</u>	[N/A] <u>36</u>	N/A		
Dumbwaiters	[6] 12	36	60		
Material lifts	[6] 12	36	60		
Platform lifts and stairway chairlifts	[6] 12	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		

¹ Internal inspections of escalators and moving walks shall be performed at intervals of 36 months. ^[2] Personnel hoists shall be load tested at intervals of [6] 3 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."

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"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 230.1

ELEVATORS, ESCALATORS, DUMBWAITERS, MOVING WALKS, AND MATERIAL LIFTS AND DUMBWAITERS WITH AUTOMATIC TRANSFER DEVICES

§12-230.1-1	Applicability
§12-230.1-2	General requirements
§12-230.1-3	Requirements for the installation of new
	elevators and kindred equipment [and/or]
	or the relocation of existing equipment
§12-230.1-4	Requirements for existing elevators,
	escalators, dumbwaiters, moving walks,
	and material lifts and dumbwaiters with
	automatic transfer devices

Historical Note: Chapter 230.1 is based on chapter 230 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 6/30/14]

\$12-230.1-1 <u>Applicability</u>. The requirements of this chapter shall be applicable to the design, construction, installation, plans review, testing, inspection, certification, 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 6/30/14; comp] (Auth: HRS §397-4) (Imp: HRS §397-4)

\$12-230.1-2 <u>General requirements</u>. (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 6/30/14; comp] (Auth: HRS §397-4) (Imp: HRS §397-4)

\$12-230.1-3 <u>Requirements for the installation of new</u> elevators and kindred equipment [and/or] or the relocation of <u>existing equipment.</u> (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/limitedapplication 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 when 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].

Section 2.27.8 (switch keys) of American Society of $(\dot{1})$ 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 6/30/14; am and comp] (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[.] as illustrated in Exhibit A, titled "Existing Elevator and Kindred Equipment Code Application Dates", dated January 1, 2017, which is made a part of this chapter and located at the end of this chapter, provided that for those years where the Hawaii Registration number (HAR) did not specify code year, the code version of the American Society of Mechanical Engineers A17.1 in effect at the time of installation or alteration shall apply. The director shall have the discretion to apply a specific code to any elevator and related system if the applicable code cannot be readily ascertained. 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:

 Part 1, General, shall apply to all existing elevators, escalators, moving walks, <u>and</u> dumbwaiters, and material lifts;

- (2) Section 5.10, Elevators Used for Construction, shall apply to all existing elevators used for construction;
- 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".] <u>Section 8.6.1.2.1(c) of the</u> <u>American Society of Mechanical Engineers A17.1 shall</u> not apply.
- (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 <u>or alteration</u> application was received by the department after December 6, 1990.

(d) American Society of Mechanical Engineers 17.6 2010 shall apply to existing elevators with other types of suspension means and steel cables less than threeeighths of an inch in diameter. [Eff 6/30/14; am and comp] (Auth: HRS §397-4) (Imp: HRS §397-4)

EXHIBIT A EXISTING ELEVATOR AND KINDRED EQUIPMENT CODE APPLICATION DATES

January 1, 2017

	A17.1 REFERENCE YEAR					
HAR Chapter 22	No year specified, Applicable ANSI Edition 1955					
HAR Chapter 22	1960					
HAR Chapter 22	1965					
HAR Chapter 230	1981					
HAR Chapter 230	1987					
HAR Chapter 230	1990					
HAR Chapter 230	1996					
HAR Chapter 230	1996					
HAR Chapter 230-1	2010					
	HAR Chapter 22 HAR Chapter 22 HAR Chapter 230 HAR Chapter 230 HAR Chapter 230 HAR Chapter 230 HAR Chapter 230 HAR Chapter 230					

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

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

5. These amendments to and compilation of chapters 12-229-1 and 12-230-1, 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 [Effective Date], and filed with the Office of the Lieutenant Governor.

> LINDA CHU TAKAYAMA Director of Labor and Industrial Relations

APPROVED AS TO FORM:

Deputy Attorney General

Exhibit 2

BUSINESS ASSISTANCE BRANCH

Chapter V. Report Process

1-5-1 <u>Authority</u>. This rule governs the procedures of the Public Access, Open Space and Natural Resources Preservation Fund Commission pursuant to the authority conferred under Chapter 6, Article 14, Kauai County Code 1987 as amended (KCC).

1-5-2 Public Input

- (a) The Commission shall solicit public input for proposals to be considered for funding. Strategies to solicit public input shall include but not be limited to discussion during Commission meetings, community outreach to various groups, and participation in community events.
- (b) The Department shall solicit public input for proposals to be considered for funding. Strategies to solicit public input shall include but not be limited to community outreach to various groups and participation in community events.
- (c) The Department shall maintain a website to inform the public of the Commission's purposes and provide a mechanism for the public to provide input on proposals.

1-5-3 Department Review and Recommendation

- (a) Within 45 days of receiving a proposal(s), the Department shall transmit a preliminary report on the public proposal(s) to the Commission. In the report, the Department shall provide a preliminary evaluation and recommendation based on the criteria or prohibitive factor for acquisition established in Section 1-5-4 and 1-5-5 of these rules.
- (b) At least 90 days prior to the first Commission meeting in January of odd calendar years, the Department shall provide a final evaluation and recommendation for the proposal(s) received subsequent to the adoption of the last preceding biennial report. The recommendation shall be based on the criteria or prohibitive factor for acquisition established in Section 1-5-4 and 1-5-5 of these rules.
- (c) After further research, should the Department determine that a preliminarily approved recommendation for acquisition does not meet the criteria of Section 1-5-4 or has a prohibitive factor, the Department shall transmit an additional report to the Commission providing an amended evaluation and recommendation.

1-5-4 <u>Criteria for Acquisition</u>. In the event that a proposal does not meet one or more of the following criteria, the proposed acquisition shall not be recommended. The Department shall submit a recommendation for acquisition only if all criteria established in subsections (a) through (d) of this section are met:

(a) The proposal fulfills at least one of the Commission's purposes to provide:

(1) Public outdoor recreation and education, including access to beaches and mountains;

- (2) Preservation of historic or culturally important land areas and sites;
- (3) Protection of significant habitats or ecosystems, including buffer zones;
- (4) Preserving forests, beaches, coastal areas and agricultural lands;
- (5) Protecting watershed lands to preserve water quality and water supply;
- (6) Conserving land in order to reduce erosion, floods, landslides, and runoff;
- (7) Improving disabled and public access to, and enjoyment of, public land and open space;
- (8) Acquiring disabled and public access to public land, and open space;
- (9) Conserving land open space and scenic values.
- (b) The cost for the acquisition is commensurate to the public interest served. The cost may be shared by other parties.
- (c) The process for the acquisition is commensurate to the public interest served. Factors may include, but are not limited to:
 - (1) The type of property interest that is proposed for acquisition (for example, an easement versus fee simple ownership);
 - (2) Whether or not the acquisition will be an adversarial process.
- (d) The lack of any maintenance requirements; or in the event there are maintenance requirements, the maintenance requirements have cost implications that are commensurate to the public interest served.

<u>Prohibitive Factor</u>. Any proposed acquisition that contains extremely dangerous attributes in the land or that poses a risk of serious injury or death shall not be recommended.

1-5-6 Biennial Report

- (a) The Commission shall adopt a biennial report that:
 - (1) Reports the balance and reviews the sufficiency of the fund;

- (2) Prioritizes land or property entitlements or proposals that were recommended for acquisition and are directly related to the purpose of Chapter 6 Article 14 of the KCC;
- (3) Provides an acquisition plan for each proposal that is recommended for acquisition.
- (b) The biennial report shall be adopted by a majority vote of the Commission on the first meeting held in January of odd calendar years. In the event that no action is taken (for example, due to a lack of a majority vote), review and action on the biennial report shall be scheduled at each subsequent Commission meeting until action is taken.
- (c) The Commission shall attempt to prioritize the recommended projects, and the biennial report shall reflect the adopted prioritization of projects. In the event that no consensus is achieved on the prioritization of projects, the report shall reflect as such.
- (d) The biennial report shall be transmitted to the Council and Mayor within 30 days of adoption. The transmittal shall request a response from the Council within 120 days of its receipt of the transmittal.
- (e) The Chairperson, or a commissioner appointed by the Chairperson, shall represent the Commission before the Council during the presentation of the biennial report. At the discretion of the Planning Director, a representative of the Planning Department may accompany the Commission representative during the presentation.

1-5-7 Dossier Recommendation Process

- (a) A Commission recommendation for acquisition outside of the biennial report ("dossier recommendation") may be adopted and transmitted to Council and Mayor only when the Commission determines all of the following:
 - (1) The proposal meets the criteria for acquisition established under Section 1-5-4 of these rules;
 - (2) The proposal does not have a prohibitive factor under Section 1-5-5 of these rules;
 - (3) There is a demonstrable urgency concerning the timing of acquisition where delaying action to the upcoming biennial report will result in significantly more expense, an adversarial acquisition process, or both.
- (b) The dossier recommendation shall provide an acquisition plan for the proposal.
- (c) Prior to the Commission taking action on a dossier recommendation, the Department shall provide the Commission with an evaluation and recommendation based on the criteria or prohibitive factor for acquisition established in Section 1-5-4 and 1-5-5 of these rules.

- (d) The dossier recommendation shall be transmitted to the Council and Mayor within 30 days of adoption. The transmittal shall request a response from the Council within 120 days of its receipt of the transmittal.
- (e) The Chairperson, or a commissioner appointed by the Chairperson, shall represent the Commission before the Council during the presentation of a dossier recommendation. At the discretion of the Planning Director, a representative of the Planning Department may accompany the Commission representative during the presentation.

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BUSINESS ASSISTANCE BRANCH

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- (b) The Department shall solicit public input for proposals to be considered for funding. Strategies to solicit public input shall include but not be limited to community outreach to various groups and participation in community events.
- (c) The Department shall maintain a website to inform the public of the Commission's purposes and provide a mechanism for the public to provide input on proposals.
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 - (a) Within 45 days of receiving a proposal(s), the Department shall transmit a preliminary report on the public proposal(s) to the Commission. In the report, the Department shall provide a preliminary evaluation and recommendation based on the criteria or prohibitive factor for acquisition established in Section 1-5-4 and 1-5-5 of these rules.
 - (b) At least 90 days prior to the first Commission meeting in January of odd calendar years, the Department shall provide a final evaluation and recommendation for the proposal(s) received subsequent to the adoption of the last preceding biennial report. The recommendation shall be based on the criteria or prohibitive factor for acquisition established in Section 1-5-4 and 1-5-5 of these rules.
 - (c) After further research, should the Department determine that a preliminarily approved recommendation for acquisition does not meet the criteria of Section 1-5-4 or has a prohibitive factor, the Department shall transmit an additional report to the Commission providing an amended evaluation and recommendation.

1-5-4 <u>Criteria for Acquisition</u>. In the event that a proposal does not meet one or more of the following criteria, the proposed acquisition shall not be recommended. The Department shall submit a recommendation for acquisition only if all criteria established in subsections (a) through (d) of this section are met:

(a) The proposal fulfills at least one of the Commission's purposes to provide:

(1) Public outdoor recreation and education, including access to beaches and mountains;

- (2) Preservation of historic or culturally important land areas and sites;
- (3) Protection of significant habitats or ecosystems, including buffer zones;
- (4) Preserving forests, beaches, coastal areas and agricultural lands;
- (5) Protecting watershed lands to preserve water quality and water supply;
- (6) Conserving land in order to reduce erosion, floods, landslides, and runoff;
- (7) Improving disabled and public access to, and enjoyment of, public land and open space;
- (8) Acquiring disabled and public access to public land, and open space;
- (9) Conserving land open space and scenic values.
- (b) The cost for the acquisition is commensurate to the public interest served. The cost may be shared by other parties.
- (c) The process for the acquisition is commensurate to the public interest served. Factors may include, but are not limited to:
 - (1) The type of property interest that is proposed for acquisition (for example, an easement versus fee simple ownership);
 - (2) Whether or not the acquisition will be an adversarial process.
- (d) The lack of any maintenance requirements; or in the event there are maintenance requirements, the maintenance requirements have cost implications that are commensurate to the public interest served.

<u>Prohibitive Factor</u>. Any proposed acquisition that contains extremely dangerous attributes in the land or that poses a risk of serious injury or death shall not be recommended.

1-5-6 Biennial Report

- (a) The Commission shall adopt a biennial report that:
 - (1) Reports the balance and reviews the sufficiency of the fund;

- (2) Prioritizes land or property entitlements or proposals that were recommended for acquisition and are directly related to the purpose of Chapter 6 Article 14 of the KCC;
- (3) Provides an acquisition plan for each proposal that is recommended for acquisition.
- (b) The biennial report shall be adopted by a majority vote of the Commission on the first meeting held in January of odd calendar years. In the event that no action is taken (for example, due to a lack of a majority vote), review and action on the biennial report shall be scheduled at each subsequent Commission meeting until action is taken.
- (c) The Commission shall attempt to prioritize the recommended projects, and the biennial report shall reflect the adopted prioritization of projects. In the event that no consensus is achieved on the prioritization of projects, the report shall reflect as such.
- (d) The biennial report shall be transmitted to the Council and Mayor within 30 days of adoption. The transmittal shall request a response from the Council within 120 days of its receipt of the transmittal.
- (e) The Chairperson, or a commissioner appointed by the Chairperson, shall represent the Commission before the Council during the presentation of the biennial report. At the discretion of the Planning Director, a representative of the Planning Department may accompany the Commission representative during the presentation.

1-5-7 Dossier Recommendation Process

- (a) A Commission recommendation for acquisition outside of the biennial report ("dossier recommendation") may be adopted and transmitted to Council and Mayor only when the Commission determines all of the following:
 - (1) The proposal meets the criteria for acquisition established under Section 1-5-4 of these rules;
 - (2) The proposal does not have a prohibitive factor under Section 1-5-5 of these rules;
 - (3) There is a demonstrable urgency concerning the timing of acquisition where delaying action to the upcoming biennial report will result in significantly more expense, an adversarial acquisition process, or both.
- (b) The dossier recommendation shall provide an acquisition plan for the proposal.
- (c) Prior to the Commission taking action on a dossier recommendation, the Department shall provide the Commission with an evaluation and recommendation based on the criteria or prohibitive factor for acquisition established in Section 1-5-4 and 1-5-5 of these rules.

- (d) The dossier recommendation shall be transmitted to the Council and Mayor within 30 days of adoption. The transmittal shall request a response from the Council within 120 days of its receipt of the transmittal.
- (e) The Chairperson, or a commissioner appointed by the Chairperson, shall represent the Commission before the Council during the presentation of a dossier recommendation. At the discretion of the Planning Director, a representative of the Planning Department may accompany the Commission representative during the presentation.

Exhibit 3

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

Adoption of Chapter 3-181 Hawaii Administrative Rules

SUMMARY

1. Chapter 181 of Title 3, Hawaii Administrative Rules, entitled "State Energy Conservation Code" adopting and amending the "International Energy Conservation Code, 2006 Edition", is repealed.

2. Chapter 181 of Title 3, Hawaii Administrative Rules, entitled "State Energy Conservation Code", amending the "International Energy Conservation Code, 2009 2012 2015 Edition" to include amendments applicable to the state, is adopted.

E C E NOV 5 2015 **BUSINESS ASSISTANCE BRANCH**

HAWAII ADMINISTRATIVE RULES

TITLE 3

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

SUBTITLE 14

STATE BUILDING CODE COUNCIL

CHAPTER 181

STATE ENERGY CONSERVATION CODE

Subchapter 1 Rules of General Applicability

§3-181-1	Purpose	
\$3-181-2	Scope	
\$3-181-3	Definitions	
\$3-181-4	Adoption of the International Code	Energy Conservation
\$3-181-5	Permit authorization	

Subchapter 2 Amendments to the 2009 ICC International Energy Conservation Code

- \$3-181-6 Title
- \$3-181-7 General
- \$3-181-8 Low-energy use buildings
- \$3-181-9 Thermal resistance of above-grade walls
- \$3-181-10 Area-weighted SHGC
- \$3-181-11 Door switches

§3-181-12	Specific application controls
§3-181-13	Sub-metering (Mandatory)
§3-181-14	Compliance
§3-181-15	Roof Replacement
§3-181-16	General
§3-181-17	Compliance
§3-181-18	Tropical zone
\$3-181-19	General (Prescriptive)
\$3-181-20	Specific insulation requirements (Prescriptive)
\$3-181-21	Fenestration (Prescriptive)
\$3-181-22	Solar water heating
\$3-181-23	Ceiling Fans (Mandatory)
\$3-181-24	Simulated performance alternative
\$3-181-25	Points Option
\$3-181-26	Compliance
\$3-181-27	Building envelope

181-3

SUBCHAPTER 1

RULES OF GENERAL APPLICABILITY

\$3-181-1 Purpose. The purpose of this chapter is to adopt the state energy conservation code as required by section 107-25, Hawaii Revised Statutes (HRS).

[Off] (Auth: HRS \$107-29) (Imp: HRS \$\$107-24, 107-25)

\$3-181-2 Scope. This chapter sets forth minimum requirements for the design and construction of buildings for the effective use of energy and is intended to provide flexibility to allow the use of innovative approaches and techniques to achieve the effective use of energy.

[Off] (Auth: HRS §107-29) (Imp: HRS §\$107-24, 107-25)

\$3-181-3 Definitions. In this chapter, unless the context otherwise requires:

"ICC" means the International Code Council.

"IECC Section" means a section of a chapter of the International Energy Conservation Code.

"IECC" means the ICC, International Energy Conservation Code, [2006] 2009 2012 2015 edition, as copyrighted by the International Code Council. [Off] (Auth: HRS \$107-29) (Imp: HRS \$\$107-24, 107-25)

\$3-181-4 Adoption of the International Energy Conservation Code. The "International Energy Conservation Code, [2006] 2009 2012 2015 Edition" as copyrighted and published in [2006] 2009 2012 2015 by International Code Council, Incorporated, 500 New Jersey Avenue, 6th Floor, Washington, DC 20001, is adopted by reference and made a part of this chapter. This incorporation by reference includes all parts of the International Energy Conservation Code subject to the amendments hereinafter set forth. The appendices of the ICC, IECC are not adopted except as provided in this chapter. [Off] (Auth: HRS \$107-29) (Imp: HRS \$\$107-24, 107-25)

§3-181-5 Permit authorization. Each county may, by ordinance, require that a permit be obtained from the building official for any area regulated by this chapter. [Off] (Auth: HRS \$107-29) (Imp: HRS §\$107-24, 107-25)

SUBCHAPTER 2

The 2006 Energy Conservation Code of the State of Hawaii shall be deleted in its entirety and replaced by the 2015 International Energy Conservation Code with the proposed amendments.

AMENDMENTS TO THE 2015+ ICC INTERNATIONAL ENERGY CONSERVATION CODE

\$3-181-6 Title. IECC section 101.1 is amended to read as follows:

"101.1 Title. This code shall be known as the [International]
Energy Conservation Code of the State of Hawaii, and shall be cited as
such. It is referred to herein as "this code"." [Eff
] (Auth: HRS \$107-29) (Imp: HRS \$\$107-24, 107-25)

\$3-181-7 General. IECC section C103.1 is deleted in its entirety and replaced with the following:

"103.1 General. When the requirements in this code apply to a building as specified in Section C101.4, plans, specifications or other construction documents submitted for a building, electrical or plumbing permit required by the jurisdiction shall comply with this code and shall be prepared, designed, approved and observed by a design professional. The responsible design professional shall

provide on the plans a signed statement certifying that the project is in compliance with this code.

Exception: Any building, electrical or plumbing work that is not required to be prepared, designed, approved or observed by a licensed professional architect or engineer pursuant to chapter 464 Hawaii Revised Statutes." [Eff] (Auth: HRS §107-29) (Imp: HRS §\$107-24, 107-25)

\$3-181-8 Low-energy use buildings. IECC Section C402.1.1 is amended to read as follows:

"C402.1.1 Low-energy use buildings. The following low energy buildings, or portions thereof separated from the remainder of the building by building thermal envelope assemblies complying with this section, shall be exempt from the building thermal envelope provisions of Section C402.

- Those with a peak design rate of energy usage less than 3.4 Btu/h-ft2 (10.7 W/m2) or 1.0 watt per square foot (10.7 W/m2) of floor area for space conditioning purposes.
- 2. <u>Unconditioned space that does</u> Those that do not contain conditioned habitable space.
- 3. Greenhouses.

§3-181-9 Thermal resistance of above-grade walls. IECC Section C402.2.3 is amended to read as follows:

"C402.2.3 Thermal resistance of above-grade walls. The minimum thermal resistance (R-value) of materials installed in the wall cavity between framing members and continuously on the walls shall be as specific in Table C401.3, based on framing type and construction materials used in the wall assembly.

Exceptions:

<u>Continuous insulation for wood and metal framed walls are not</u> required when one of the following conditions are met:

- 1. Walls have a covering with a reflectance of \geq 0.64
- 2. Walls have overhangs with a projection factor equal to or greater than 0.3. The projection factor is the horizontal distance from the surface of the wall to the farthest most point of the overhang divided by the vertical distance from the first floor level to the bottom most point of the overhang.

The R-value of integral insulation installed in concrete masonry units shall not be used in determining compliance with Table C402.1.3. Mass walls shall include walls:

- 1. Weighing not less than 35 psf (170 $kg/m^2)$ of wall surface area.
- 2. Weighing not less than 25 psf (120 kg/m^2) of wall surface area
- where the material weight is not more than 120 pcf (1900 kg/m³).
- 3. Having a heat capacity exceeding 7 $Btu/ft^2 \cdot F$ (144 cage/m²·K).
- 4. Having a heat capacity exceeding 5 Btu/ft^{2.°}F (103 kJ/m^{2.K}), where the material weight is not more than 120 pcf (1900 kg/m³."

[Off] (Auth: HRS \$107-29) (Imp: HRS \$\$107-24, 107-25)

\$3-181-10 Area-weighted SHGC. Section C402.4.3.5 is added to the IECC to read as follows:

"C402.4.3.5	Area-weighte	d SHGC.	Ind	commerc	ial	bu.	ildings	, an	area-
weighted average	of fenestrati	ion prod	ucts	s shall	be	per	mitted	to	
satisfy SHGC req	uirements." [E	Eff]	(Auth:	HRS	§107-
29)(Imp: HRS §§1	07-24, 17								

\$3-181-11 Door switches. Section C403.2.4.2.3 is added to the IECC to read as follows:

<u>"C403.2.4.2.4 Door switches.</u> Opaque and glass doors opening to the outdoors in hotel and motel sleeping units, guest suites and timeshare condominiums, shall be provided with controls that disable the mechanical cooling, or reset the cooling setpoint to 90° F or greater within five minutes of the door opening. Mechanical cooling may remain enabled if the outdoor air temperature is below the space temperature." [Eff] (Auth: HRS §107-29) (Imp: HRS §\$107-24, 17

\$3-181-12 Specific application controls. IECC Section C405.2.4 is amended to read as follows:

"C405.2.4 Specific application controls. Specific application controls shall be provided for the following:

- Display and accent light shall be controlled by a dedicated control that is independent of the controls for other lighting within the room or space.
- 2. Lighting in cases used for display case purposes shall be controlled by a dedicated control that is independent of the controls for other lighting within the room or space.
- 3. Hotel and motel sleeping units and, guest suites and timeshare condominiums shall have a master control device that is capable of automatically switching off all installed luminaires and switched receptacles within 20 minutes after all occupants leave the room.

Exception: Lighting and switched receptacles controlled by captive key systems.

- 4. Supplemental task lighting, including permanently installed under-shelf or under cabinet lighting, shall have a control device integral to the luminaires or be controlled by a wallmounted control device provided that the control device is readily accessible.
- 5. Lighting for nonvisual applications, such as plant growth and food warming, shall be controlled by a dedicated control that is independent of the controls for other lighting within the room or space."
- 6. Lighting equipment that is for sale or for demonstrations in lighting education shall be controlled by a dedicated control that is independent of the controls for other lighting within the room or space. [Eff] (Auth: HRS §107-29) (Imp: HRS §\$107-24, 17

\$3-181-13 Sub-metering (Mandatory). Section C405.10 is added to the IECC to read as follows:

"C405.10 Sub-metering (Mandatory). In new buildings with tenants, metering shall be collected for the entire building and individually for each tenant occupying 1,000 ft² (total enclosed and unenclosed) (93 m²) or more. Tenants shall have access to data collected for their space. A tenant is defined as "one who rents or leases from a landlord." [Eff] (Auth: HRS §107-29) (Imp: HRS §\$107-24, 17

\$3-181-14 Compliance. IECC Section C501.4 is amended to read as follows:

C501.4 Compliance. Alterations, repairs, additions and changes of occupancy to, or relocation of, existing buildings and structures shall comply with the provisions <u>and regulations</u> for alterations, repairs, additions and changes of occupancy or relocation, <u>as adopted</u> by the authorities having jurisdiction. respectively, in the <u>International Residential Code</u>, <u>International Building Code</u>, <u>International Fire Code</u>, <u>International Fuel Gas Code</u>, <u>International Property</u> <u>Maintenance Code</u>, <u>International Private Sewage Disposal Code</u> and NFPA 70.

\$3-181-15 Roof Replacement. Section C503.3.1 is amended to read as follows (note that options are provided for this amendment):

C503.3.1 Roof replacement. Roof replacements shall comply with Table C402.1.3 or C402.1.4 where the existing roof assembly is <u>uninsulated and is part of the building thermal envelope</u>. and contains insulation entirely above the roof deck.

\$3-181-16 General. IECC section R103.1 is deleted in its entirety and replaced with the following:

"R103.1 General. When the requirements in this code apply to a building as specified in Section R101.4, plans, specifications or other construction documents submitted for a building, electrical or plumbing permit required by the jurisdiction shall comply with this code and shall be prepared, designed, approved and observed by a design professional. The responsible design professional shall provide on the plans a signed statement certifying that the project is in compliance with this code.

Exception: Any building, electrical or plumbing work that is not required to be prepared, designed, approved or observed by a licensed professional architect or engineer pursuant to chapter 464 Hawaii Revised Statutes." [Eff] (Auth: HRS §107-29) (Imp: HRS §\$107-24, 107-25)

\$3-181-17 Compliance. IECC Section R401.2 is amended to read as follows:

R401.2 Compliance. Projects shall comply with one of the following:

- 1. Sections R401.3 through R404
- 2. Sections R405 and the provisions of Section R401 through R404 labeled "Mandatory."
- 3. An energy rating index (ERI) approach in Section R406.

4. The Tropical zone requirements in Section R401.2.1.

\$3-181-18 Tropical zone. IECC Section R401.2.1 is amended to read as follows:

"R401.2.1 Tropical zone. Residential buildings in the tropical zone at elevations below 2,400 feet (731.5 m) above sea level shall be deemed to comply with this chapter where the following conditions are met:

- 1. Not more than one-half of the *occupied* space *dwelling* unit is air conditioned
- 2. The occupied space dwelling unit is not heated.
- 3. Solar, wind or other renewable energy source supplies not less than 80 90 percent of the energy for service water heating.
- 4. Glazing in <u>dwelling units</u> <u>conditioned space has</u> shall have a <u>maximum a solar heat gain coefficient as specified in Table</u> <u>R402.2.1</u>. of less than or equal to 0.40, or has an overhang with a projection factor equal to or greater than 0.30.

Table R402.2.1. Window SHGC Requirements

Projection Factor of overhang from base of average window sill ^b	SHGC
< .30	.25
.3050	.40
≥.50	N/A

^b-Exception: North-facing windows with pf > .20 are exempt from the SHGC requirement. Overhangs shall extend 2 feet on each side of window or to nearest wall, whichever is less.

- 5. <u>Skylights in dwelling units shall have a maximum U-factor as</u> specified in Table R402.1.2.
- 56. Permanently installed lighting is in accordance with Section R404.
- 67. The exterior roof surface roof/ceiling complies with one of the following options:
 - 1. <u>Comply with one of the roof surface options in Table</u> C402.3 and install R-13 insulation or greater.
 - 2. Install R-19 insulation or greater.

in Table C402.3 or the roof/ceiling has insulation with an *R*value of R-15 greater If present, attics above the insulation are vented and attics below the insulation are unvented.

Exception: The roof/ceiling assembly are permitted to comply with Section R407.

- 78. Roof surfaces have a minimum slope of ¼ inch per foot of run. The finished roof does not have water accumulation areas.
- 89. Operable fenestration provides ventilation area equal to not less than 14 percent of the floor area in each room.

Alternatively, equivalent ventilation is provided by a ventilation fan.

- 910. Bedrooms with exterior walls facing two different direction have operable fenestration or exterior walls facing two different directions.
- 1011. Interior doors to bedrooms are capable of being secured in the open position.
- <u>1112</u>. A ceiling fan or ceiling fan rough-in is provided for bedrooms and the largest space that is not used as bedroom.
- 13. Jalousie windows shall have an air infiltration rate of no more than 1.2 cfm per square foot (6.1 L/s/m²)."
- 14. Walls, floors and ceilings separating air conditioned spacesfrom non-air conditioned spaces shall be constructed to limitair leakage in accordance with the requirements in TableR402.4.1.1.[Eff29) (Imp: HRS \$\$107-24, 17

\$3-181-19 General (Prescriptive). IECC Section R402.1 is amended to read as follows:

"C402.1.1 Low-energy use buildings. The following low energy buildings, or portions thereof separated from the remainder of the building by building thermal envelope assemblies complying with this section, shall be exempt from the building thermal envelope provisions of Section R402.

- Those with a peak design rate of energy usage less than 3.4 Btu/h-ft2 (10.7 W/m2) or 1.0 watt per square foot (10.7 W/m2) of floor area for space conditioning purposes.
- 2. <u>Unconditioned space that does</u> Those that do not contain conditioned habitable space.

\$3-181-20 Specific insulation requirements (Prescriptive). IECC Section R402.2 is amended to read as follows:

"R402.2 Specific insulation requirements (Prescriptive). In addition to the requirements of Section R402.1, insulation shall meet the specific requirements of Sections R402.2.1 through R402.2.13.

Exception:

Above-grade walls and ceilings shall be permitted to comply with Section R407."

§3-181-21 Fenestration (Prescriptive). IECC Section R402.3.2 is amended to read as follows:

"R402.3.2 Glazed fenestration SHGC. <u>Fenestration-shall have</u> <u>a maximum solar heat gain coefficient as specified in Table R402.1.2.</u> An area-weighted average of fenestration products more than 50-percent glazed shall be permitted to satisfy the SHGC requirements."

Dynamic glazing shall be permitted to satisfy the SHGC requirements of Table R402.1.2 provided the ratio of the higher to lower labeled SHGC is greater than the or equal to 2.4 and the

dynamic glazing is automatically controlled to modulate the amount of solar gain into the space in multiple steps. Dynamic glazing shall be considered separately from other fenestration, and areaweighted averaging with other fenestration that is not dynamic glazing shall not be permitted.

Exception: Dynamic glazing is not required to comply with this section when both the lower and higher labeled SHGC already comply with the requirements of Table R402.1.1." [Eff] (Auth: HRS \$107-29) (Imp: HRS \$\$107-24, 17

§3-181-22 Solar water heating. Section R403.5.4 is added to the IECC to read as follows:

112	Sect:	ion	R403.5	5.5	Solar	water	heating	J. Sola	ar '	wate	c he	eating
systems	are	reç	quired	for	new	single-	-family	resident	ial	con	stru	uction
pursuant	to	HRS	196-6	.5.	[Eff]	(Au	th:	HRS	§107-
29)(Imp:	HRS	\$§1	.07-24,	17								

\$3-181-23 Ceiling Fans (Mandatory). IECC Section R404.2 is amended to read as follows:

<u>"R404.2 Ceiling Fans (Mandatory).</u> A ceiling fan or ceiling fan rough-in is provided for bedrooms and the largest space that is not used as bedroom." [Eff] (Auth: HRS \$107-29)(Imp: HRS \$\$107-24, 17

\$3-181-24 Simulated performance alternative. IECC Table R405.5.2(1) is amended to read as follows:

	Table R405.5.2(1)	
SPECIFICATIO	ONS FOR THE STANDARD REFERENCE AND	PROPOSED DESIGNS
BUILDING		
COMPONENT	STANDARD REFERENCE DESIGN	PROPOSED DESIGN
Heating Systems	As proposed for other than electric heating without without a heat pump, where the proposed design utilizes electric heating without a heat pump the standard reference design shall be an air source heat pump meeting the requirements of section C403 of the ICC-Commercial Provisions.	
	Fuel type: same as proposed design	As proposed
	Efficiencies: Electric: Air-source heat pump with prevailing federal minimum standards	As proposed
	Nonelectric furnaces: natural gas furnace with prevailing federal minimum standards	As proposed
	Nonelectric boilers: natural gas boiler with prevailing federal minimum standards	As proposed
	Capacity: sized in accordance with Section R403.7	As proposed
Cooling systems	As proposed Fuel type: Electric	
	Efficiency: in accordance with prevailing federal minimum standards	As proposed
	Capacity: sized in accordance with Section R403.7	As proposed
Service water heating	As proposed Fuel type: same as proposed design Efficiency: in accordance with prevailing federal	As proposed As proposed
	minimum standards Use: Same as proposed design	gal/day = 30 + (10x Nbr)

§3-181-25

\$3-181-25 Points Option. Section R407 is added to the IECC to read as follows:

"SECTION R407

POINTS OPTION

R407.1 General (Prescriptive). Above-grade walls and roofs are permitted to comply with the points option as an alternative to complying with Section R401.2.1 and R402.2.

R407.2 Requirements. One or more efficiency measures shall be selected for roof and *above-grade* wall systems from Table R407.1 that cumulatively equal or exceed 0 (zero) points.

As an alternative, *above-grade walls* and roofs are permitted to comply separately by scoring 0 (zero) or greater.

TABLE R407.1

POINTS OPTION

Walls		Standard Home Points	Tropical Home Points
Wood Frame	<u>d</u>	- 1	
-	R-13 Cavity Wall Insulation	0	1
	R-19 Roof Insulation	-1	0
	R-19 Roof Insulation + Cool roof	<u>0</u>	1
	membrane ¹ or Radiant Barrier ³		
	R-19 Roof Insulation + Attic	<u>0</u>	1
	Venting ²		
	R-30 Roof Insulation	0	1
	R-13 Wall Insulation + high	1	2
	reflectance walls ⁴	_	
	R-13 Wall insulation + 90% high	1	2
	efficacy lighting and Energy Star	_	
	Appliances ⁵		
	R-13 Wall Insulation + exterior	1	2
	shading wpf=0.36		_
	Ductless Air Conditioner ⁷	1	1
	1.071 X Federal Minimum SEER for	1	1
	Air Conditioner		
<u>5</u>	1.142 X Federal Minimum SEER for	2	2
	Air Conditioner	-	
	No air conditioning installed	Not	2
		Applicable	_
	House floor area \leq 1,000 ft ²	1	1
	House floor area $\geq 2,500 \text{ ft}^2$	-1	-1
	Energy Star Fans ⁸	1	1
	Install 1 kW or greater of solar	<u>1</u>	<u>1</u>
	electric	_	_
Metal .			
Framed			
	R-13 +R 3 Wall Insulation	0	<u>1</u>
	R-13 cavity Wall insulation + R-0		0
8	R-13 Wall Insulation + high	0	1
	_reflectance walls ⁴		
	R-13 wall insulation + 90% high	<u><u>1</u></u>	2
	efficacy lighting and Energy Star		
	Appliances ⁵		
	R-13 Wall Insulation + exterior	<u>0</u>	<u>1</u>
	shading wpf=0.36		
	R-30 Roof Insulation	<u>0</u>	1
	R-19 Roof Insulation	<u>-1</u>	0
	R-19 + Cool roof membrane ¹ or	0	1
	Radiant Barrier ³		

R-19 Roof Insulation + Attic	0	1
Venting ²	_	
Ductless Air Conditioner ⁷	1	1
1.071 X Federal Minimum SEER for	1	1
Air Conditioner		
1.142 X Federal Minimum SEER for	2	2
Air Conditioner	_	
No air conditioning installed	Not	2
	Applicable	
House floor area \leq 1,000 ft ²	1 1	1
House floor area $\geq 2,500 \text{ ft}^2$	-1	-1
Energy Star Fans ⁷	1	1
Install 1 kW or greater of solar	1	1
electric		_
	Venting²Ductless Air Conditioner71.071 X Federal Minimum SEER forAir Conditioner1.142 X Federal Minimum SEER forAir ConditionerNo air conditioning installedHouse floor area ≤ 1,000 ft²House floor area ≥ 2,500 ft²Energy Star Fans7Install 1 kW or greater of solar	Venting2Ductless Air Conditioner71.071 X Federal Minimum SEER for Air Conditioner1.142 X Federal Minimum SEER for Air Conditioner1.142 X Federal Minimum SEER for Air ConditionerNo air conditioning installedNo air conditioning installedHouse floor area \leq 1,000 ft2House floor area \geq 2,500 ft2-1Energy Star Fans7Install 1 kW or greater of solar

² One cfm/ft² attic venting.

³Radiant barrier shall have an emissivity of no greater than 0.05 as tested in accordance with ASTM E-408. The radiant barrier shall be installed in accordance with the manufacturer's installation instructions.

⁴ Walls with covering with a reflectance of \geq 0.64.

⁵ Energy Star rated appliances include refrigerators, dishwashers, and clothes washers and must be installed for the Certificate of Occupancy

⁶The wall projection factor is equal to the horizontal distance from the surface of the wall to the farthest most point of the overhang divided by the vertical distance from the first floor level to the bottom most point of the overhang.

⁷All air conditioning systems in the house must be ductless to qualify for this credit.

⁸ Install ceiling fans in all bedrooms and the largest space that is not used as a bedroom." [Eff

] (Auth: HRS \$107-29) (Imp: HRS \$\$107-24, 17

\$3-181-25 Compliance. IECC Section R501.4 is amended to read as follows:

R501.4 Compliance. Alterations, repairs, additions and changes of occupancy to, or relocation of, existing buildings and structures shall comply with the provisions and regulations for *alterations*, repairs, additions and changes of occupancy or relocation, as adopted by the authorities having jurisdiction. respectively, in the International Residential Code, International Building Code, International Fire Code, International Fuel Cas Code, International Mechanical Code, International Plumbing Code, International Property Maintenance Code, International Private Sewage Disposal Code and NFPA 70.

\$3-181-27 Building envelope. IECC Section R503.1.1 is amended to read as follows:

R503.1.1 Building envelope.

5. Roof without insulation in the cavity and where the sheathing or insulation is exposed during a roof replacement reroofing shall be insulated either above or below the sheathing. meet one of the following:

§3-181-27

- 1. R-30 cavity insulation or the cool roof requirements in Section C402.3 for residential buildings.
- 2. <u>R-19 cavity insulation or the cool roof requirements in</u> Section C402.3 for Tropical Zone *residential buildings*.

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

Chapter 3-181, Hawaii Administrative Rules, on the Summary Page dated _

, was adopted on

_____, following a public hearing held on ______,

after public notice was given in the Honolulu Star-Advertiser on

The adoption of chapter 3-181 shall take effect ten days after filing with the Office of the Lieutenant Governor.

DOUGLAS MURDOCK

State Comptroller and Chairperson, State Building Code Council

APPROVED:

DAVID Y. IGE

GOVERNOR

STATE OF HAWAII

Dated:

APPROVED AS TO FORM:

.

Deputy Attorney General

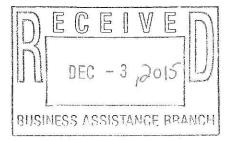
Filed

Exhibit 4



Amendment and Compilation of Chapter 16-53 Hawaii Administrative Rules

1. Chapter 16-53, Hawaii Administrative Rules, entitled "Fees Relating to Boards and Commissions", is amended and compiled to read as follows:______



"HAWAII ADMINISTRATIVE RULES

TITLE 16

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 53

FEES RELATING TO BOARDS AND COMMISSIONS

Subchapter 1 General Provisions

§16-53-1	Objective
§16-53-2	Conflicting fees
§16-53-3	Effective date of fees
§16-53-3.5	License verification or verification of any other licensing
a.	information
§16-53-3.8	Duplicate certificate, license, or permit fee
§16-53-4	Non-refund of fees
§16-53-4.1	Refunds
§16-53-5	Reinstatement of suspended license
§16-53-5.1	Discount for online renewals
§16-53-6	Inactive and reactivation fees
§16-53-7	Fee increases

Subchapter 2 Fees

016 50 0	A	• 1	1 .* *, 1	1
§16-53-8	Activity	providers an	d activity o	PCKC
Q10-JJ-0	TIOUVILY	providers an	u autivity u	CORD

- §16-53-10 Acupuncture
- §16-53-11 Repealed
- §16-53-12 Repealed
- §16-53-12.5 Athletic trainers
- §16-53-13 Barbering
- §16-53-14 Beauty culture
- §16-53-14.5 Behavior analysts
- §16-53-15 Boxing
- §16-53-15.5 Cemetery and funeral trusts
- §16-53-16 Chiropractic
- §16-53-16.3 Collection agencies

- §16-53-16.5 Commercial employment agencies
- §16-53-16.8 Condominium property regimes
- §16-53-17 Contractors
- §16-53-18 Dental hygienists
- §16-53-19 Dentistry
- §16-53-19.5 Dispensing opticians
- §16-53-20 Electricians and plumbers
- §16-53-20.1 Electrologists
- §16-53-21 Elevator mechanics
- §16-53-21.5 Emergency medical technician-basic (EMT-B) and emergency medical technician-paramedic (EMT-P)
- §16-53-22 Hearing aid dealers and fitters
- §16-53-22.5 Marriage and family therapists
- §16-53-23 Massage therapy
- §16-53-24 Medical
- §16-53-25 Repealed
- §16-53-25.1 Mental health counselors
- §16-53-25.3 Repealed
- §16-53-25.4 Mixed martial arts
- §16-53-25.5 Repealed
- §16-53-25.8 Motor vehicle industry licensing
- §16-53-25.11 Motor vehicle repairs
- §16-53-26 Naturopathy
- §16-53-27 Nurses
- §16-53-27.1 Advanced practice registered nurse with prescriptive authority
- §16-53-28 Nursing home administrators
- §16-53-29 Repealed
- §16-53-29.5 Occupational therapists
- §16-53-30 Optometry
- §16-53-31 Osteopathy
- §16-53-32 Pest control operators
- §16-53-33 Pharmacists and pharmacy
- §16-53-33.5 Physical therapy
- §16-53-34 Private detectives and guards
- §16-53-35 Pilotage
- §16-53-36 Professional engineers, architects, surveyors, and landscape architects
- §16-53-37 Psychologists
- §16-53-38 Public accountancy
- §16-53-39 Real estate

§16-53-39.1 Real estate appraisers

§16-53-39.3 Repealed

§16-53-39.4 Respiratory therapists

§16-53-39.5 Repealed

§16-53-39.6 Social workers

§16-53-40 Speech pathologists and audiologists

§16-53-40.3 Time share

- §16-53-40.5 Travel agencies
- §16-53-40.7 Uniform athlete agents
- §16-53-40.8 Uniform land sales
- §16-53-41 Veterinary medicine

§16-53-42 Repealed

- §16-53-43 Repealed
- §16-53-44 Repealed
- §16-53-45 Repealed
- §16-53-46 Repealed
- §16-53-47 Repealed
- §16-53-48 Repealed
- §16-53-49 Repealed
- §16-53-50 Repealed

SUBCHAPTER 1

GENERAL PROVISIONS

§16-53-1 <u>Objective.</u> This chapter, adopted by the director [of department] of commerce and consumer affairs, is intended to implement sections 26-9(1) and 26H-2(7), Hawaii Revised Statutes, which provide the authority to establish separate application, examination, and license fees and to increase or decrease fees as the director may determine; provided that the aggregate of the fees for any given regulatory program shall not be less than the full cost of administering that program. [Eff 9/30/83; comp 6/7/85; comp 12/7/85; comp 10/3/86; comp 5/1/87; am and comp 12/7/87; comp 11/25/88; comp 12/21/89; comp 10/4/91; comp 6/10/94; am and comp 7/18/94; am and comp 6/13/00; comp 11/22/02; comp 721/08; comp 9/2/10; am and comp] (Auth: HRS §§26-9, 26H-2(7)) (Imp: HRS §26-9)

§16-53-2 <u>Conflicting fees.</u> To the extent that this chapter conflicts with fees established under any other provision of title 16, Hawaii Administrative Rules, this chapter shall control. [Eff 9/30/83; am and comp 6/7/85; comp 12/7/85; comp 10/3/86; comp 5/1/87; comp 12/7/87; comp 11/25/88; comp 12/21/89; comp 10/4/91; comp 6/10/94; comp 7/18/94; comp 6/13/00; comp 11/22/02; comp 7/21/08; comp 9/2/10; comp] (Auth: HRS §26-9) (Imp: HRS §26-9)

§16-53-3 <u>Effective date of fees.</u> (a) Renewal fees shall apply to all licenses renewed for the year 1984 and subsequent years. Any application received by the department after January 1, 1984, shall be accompanied by the [fee] <u>fees</u> set forth in this chapter.

(b) Fees provided in these rules will be subject to the increases pursuant to section 16-53-7. [Eff 9/30/83; comp 6/7/85; am and comp 12/7/85; comp 10/3/86; comp 5/1/87; comp 12/7/87; comp 11/25/88; comp 12/21/89; comp 10/4/91; comp 6/10/94; comp 7/18/94; comp 6/13/00; comp 11/22/02; comp 7/21/08; comp 9/2/10; am and comp] (Auth: HRS §26-9) [Imp: HRS §26-9]

§16-53-3.5 <u>License verification or verification of any other licensing</u> <u>information</u>. Where written verification of [State] <u>state</u> licensure or verification of any other licensing information regarding a licensee is requested, a verification fee shall be assessed by the department and payment shall be payable to "Commerce and Consumer Affairs". The fee for each verification shall be \$15; provided that the department may charge a higher verification fee for staff time spent searching for, reviewing, segregating, or extracting information in responding to a more complex verification request when the time spent can be documented to be valued at more than \$15. [Eff and comp 7/18/94; am and comp 6/13/00; comp 11/22/02; comp 7/21/08; comp 9/2/10; am and comp] (Auth: HRS §26-9) (Imp: HRS §26-9)

§16-53-3.8 <u>Duplicate certificate, license, or permit fee.</u> Where a duplicate wall certificate, license, or permit is issued, a duplication fee shall be assessed by the department and payment shall be payable to "Commerce and Consumer Affairs". The fee for each duplication shall be \$10. [Eff and comp 6/13/00; comp 11/22/02; comp 7/21/08; comp 9/2/10; comp] (Auth: HRS §26-9)

§16-53-4 <u>Non-refund of fees</u>. The fees set forth in this chapter, which shall not be refundable, include but are not limited to:

- (1) Application fee;
- License [and registration], as defined in section 436B-2, Hawaii <u>Revised Statutes</u>, fees after the initial effective date of the license [or registration];
- (3) Biennial renewal fees after the initial effective date of the license [or registration]; and
- (4) License, as defined in section 436B-2, Hawaii Revised Statutes, verification fee. [Eff and comp 11/25/88; comp 12/21/89; comp 10/4/91; comp 6/10/94; am and comp 7/18/94; am and comp 6/13/00; comp 11/22/02; comp 7/21/08; comp 9/2/10; am and comp] (Auth: HRS §26-9) (Imp: HRS §26-9)

§16-53-4.1 <u>Refunds</u>. Refunds shall be calculated as follows:

- (1) Prior to processing of original license indicia full refund of original license fee and compliance resolution fund fee;
- Prior to processing of renewal license indicia fifty per cent of renewal fee and full refund of compliance resolution fund fee. [Eff and comp 6/13/00; comp 11/22/02; comp 7/21/08; comp 9/2/10; comp] (Auth: HRS §26-9) (Imp: HRS §26-9, 92-17)

§16-53-5 <u>Reinstatement of suspended license</u>. Application to reinstate a suspended license shall be accompanied by a fee that is the applicable application fee for the license. [Eff and comp 6/13/00; comp 11/22/02; comp 7/21/08; comp 9/2/10; comp] (Auth: HRS §26-9) (Imp: HRS §§26-9, 92-17)

§16-53-5.1 <u>Discount for online renewals.</u> (a) Whenever the licensing authority is fiscally able to apply a discount, it may decrease the renewal fee or compliance resolution fund fee, or both, for online renewals and shall set the number of renewal periods that the discount will be applicable. The provisions of section 92-28, Hawaii Revised Statutes, shall be followed in decreasing the renewal fee for this purpose. Nothing shall require the continuance of an online discount when the licensing authority determines it cannot fiscally do so.

(b) A discounted online renewal fee shall be called a Customer Appreciation Credit or "CAC".

(c) This section shall apply to the licensing chapters listed in section
92-28(1), Hawaii Revised Statutes, provided licensees renew online. [Eff and comp
7/21/08; comp 9/2/10; comp] (Auth: HRS §§26-9, 92-28)
(Imp: HRS §§26-9, 92-28)

§16-53-6 <u>Inactive and reactivation fees.</u> Unless otherwise stated in the licensing laws or rules for the respective profession or vocation, licensing authorities that allow for a license to be placed on inactive status and for the reactivation of the license shall determine the fee for processing in accordance with the following fee schedule:

	Inactiv	e fee					[\$	10] <u>\$12</u>
	Reactiv	vation f	ee for:	U)			÷.	
10	(A)	Non-c	omplex re	view			[\$	10] <u>\$12</u>
	(B)	Semi-	complex r	eview			[\$	30] <u>\$36</u>
	(C)	Comp	lex review	/			[\$	50] <u>\$60</u>
	[Eff	and	comp	7/21/08;	comp	9/2/10;	am	and
	comp] (Auth:	HRS §§	26-9, 436B	6-13.3)	(Imp:
	HRS §	§26-9,	436B-13.3	3)				

<u>§16-53-7</u> <u>Fee increases.</u> Fees for licenses, as defined in section 436B-2, <u>Hawaii Revised Statutes, license renewals, and the compliance resolution fund, shall</u> <u>increase by sixteen per cent, which shall be rounded up to the nearest whole</u> <u>number, every seven years. The first increase of fees pursuant to this rule shall take</u> <u>effect on January 1, 2023.</u> [Eff and comp] (Auth: HRS §26-9), (Imp: HRS §26-9)

SUBCHAPTER 2

FEES

§16-53-8 <u>Activity providers and activity desks</u>. The fees for activity providers and activity desks shall be as provided in this section.

(1) Application fee

(1) (2)

\$20 [\$40] <u>\$76</u>

- (2) Original registration fee
- (3) Activity providers and activity desk registration fees:

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	()		
	(A)	First year of the biennium (original registration	
		fee plus one-half of the biennial renewal fee)	[\$50] <u>\$95</u>
	(B)	Second year of the biennium (original	
		registration fee)	[\$40] <u>\$76</u>
(4)	Bienni	al renewal fee	[\$20] \$38
(5)	Inactiv	re fee	[\$10] \$12
(6)	Reacti	vation fee	[\$30] <u>\$36</u>
(7)	Restor	ation fee for failure to renew shall be the biennial ren	ewal fee,
	plus \$		
(8)	Comp	liance resolution fund:	
	(A)	Compliance resolution fund fee	[\$35] \$50
	(B)	Annual compliance resolution fund fee	[\$35] \$50
	(C)	Biennial compliance resolution fund fee	[\$70] \$100
		[Eff and comp 7/18/94; am and comp 6/13/0	0; comp
		11/22/02; am and comp 7/21/08; comp 9/2/10;	am and
		comp] (Auth: HRS	§§26-9,
		436B-13.3, 468M-2) (Imp: HRS §§436B-13, 468M	
			_/
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§16-53-10 <u>Acupuncture</u>. The fees for the board of acupuncture shall be as provided in this section:

(1)	A
(1)	Application fee
	Tippinganon 100

\$ 50

ĺ	2)	Examination and	l reexamination fees:

[(A) NCCA examination

	$\left[\left(A\right)\right]$	NUC	Aexamma	1011				
		(i)	NCCA]	National	Certification	Commis	sion	for
			Acupunc	ture (NCC	CAOM) exam	ination a	nd	other
			examinat	tion related	fees as determ	ined by ag	reer	nent
			between	the board a	nd a profession	nal testing	serv	ice
		[(ii)	Examina	tion and re	examination			
			administ	ration fee			\$	10
	(B)	State	jurispruder	nce examina	ation			
		and re	examination	on			\$	30
		(i)	Examina	tion hands	core .		\$	20
		(ii)	Examina	tion review	v fee		\$	25]
(3)	Origin	al licer	ise fee				[\$:	100] <u>\$130</u>
(4)	Licens	se fees:					4	
	(A)	First	year of the	biennium (original license			
		fee, p	lus one-hal	f of the bie	nnial renewal f	fee)	[\$]	175] <u>\$227</u>
	(B)	Secor	nd year of t	he bienniur	n (original			
		licens	se fee)				[\$]	100] <u>\$130</u>

(5)	Bienn	ial renewal fee	[\$1	50] <u>\$194</u>
(6)	Resto	[\$2	00] <u>\$234</u>	
[(7)	Dupli	cate identification cards	\$	10
(8)	Dupli	cate certificates	\$	10
(9)](7) Fee to	o use "Doctor of Acupuncture" title	<u>\$</u> \$	<u>50</u>
(8)		uncture intern	<u>\$</u>	<u>50</u>
(9)	Com	bliance resolution fund:		
2000 - KAR	(A)	Compliance resolution fund fee	[\$3	5] <u>\$50</u>
	(B)	Annual compliance resolution fund fee		5] <u>\$50</u>
	(C)	Biennial compliance resolution fund fee	[\$7	0] <u>\$100</u>
		[Eff 9/30/83; am and comp 6/7/85; am and comp	12/7	7/85;
		am and comp 10/3/86; am and comp 5/1/87; comp		
		comp 11/25/88; comp 12/21/89; comp 10/4/91;		
		comp 6/10/94; am and comp 7/18/94; am and comp		
		comp 11/22/02; comp 7/21/08; comp 9/2/10;	am	and
		comp] (Auth: HRS §§26-9, 4	436E	-15)
		(Imp: HRS §§26-9, 436B-14, 436B-15, 436E-9)		

§16-53-11 Repealed. [R 11/25/88]

§16-53-12 Repealed. [R 11/25/88]

<u>§16-53-12.5</u> <u>Athletic trainers. The fees for athletic trainers shall be as</u> provided in this section:

icu m m	13 Section.		
<u>(1)</u>	Application fee	<u>\$</u>	<u>50</u>
<u>(2)</u>	Original registration fee	<u>\$</u>	<u>50</u>
<u>(3)</u>	Registration fees:		
	(A) First year of the triennium (original registration		
	fee plus two-thirds of the triennial renewal fee)	<u>\$</u>	<u>130</u>
	(B) Second year of the triennium (original		
	registration fee, plus one-third of the triennial		
	renewal fee)	<u>\$</u>	<u>90</u>
	(C) Third year of the triennium (original registration		
	fee)	<u>\$</u>	<u>50</u>
(4)	Triennial renewal fee	<u>\$</u>	<u>120</u>
(5)	Inactive and reactivation fee	<u>\$</u>	<u>12</u>
(6)	Restoration for failure to renew registration shall be the		

<u>delinquent fees plus the penalty fee of \$100, in addition</u> to the triennial renewal fee in paragraph (3)

(7)	Com	bliance resolution fund reimbursement fee collected		
	until S	\$40,000 is transferred to the compliance resolution		
	fund		<u>\$</u>	100
<u>(8)</u> .	Com	bliance resolution fund:		
(1997) - 1997 (1997)	<u>(A)</u>	Compliance resolution fund fee	<u>\$</u>	<u>35</u>
	<u>(B)</u>	Annual compliance resolution fund fee	<u>\$</u>	<u>35</u>
	<u>(B)</u>	Triennial compliance resolution fund fee	<u>\$</u>	<u>105</u>

[Eff and comp] (Auth: HRS §§26-9, 436B-13.3, 436H-9) (Imp: HRS §§26-9, 436B-13.3, 436H-10, 436H-11)

§16-53-13 <u>Barbering</u>. The fees for the board of barbering and cosmetology shall be as provided in this section:

(1)	Applic	ation fees:		
	(A)	Barber or apprentice barber	\$	20
	(B)	Barber shop	\$	50
(2)	Exami	nation and other examination related fees as determ	nined	l by
	agreen	nent between the board and a professional testing servi	ice	
(3)	Origin	al license or permit fees:		
	(A)	Apprentice barber permit	[\$2:	5] <u>\$37</u>
	(B)	Temporary permit	[\$2:	5] <u>\$37</u>
	(C)	Barber	[\$10	D] <u>\$16</u>
	(D)	Barber shop	[\$2:	5] <u>\$38</u>
	<u>(E)</u>	Barber shop relocation	<u>\$</u> \$	<u>38</u> <u>38</u>
	<u>(F)</u>	Barber shop ownership change or transfer	<u>\$</u>	<u>38</u>
(4)	Barber	clicense fees:		
	(A)	First year of the biennium (original license		
	ар. С	fee, plus one-half of the biennial renewal fee)	[\$2	5] <u>\$39</u>
	(B)	Second year of the biennium (original license		
		fee)	[\$1	0] <u>\$16</u>
(5)	Barber	r shop, barber shop relocation, and barber shop o	wner	<u>ship</u>
	change	e or transfer license fees:		
	(A)	First year of the biennium (original license		
		fee, plus one-half of the biennial renewal fee)	[\$5	5] <u>\$76</u>
	(B)	Second year of the biennium (original license		
		fee)	[\$2	5] <u>\$38</u>

(6) Biennial renewal fees:	r.
(A) Barber	[\$30] <u>\$46</u>
(B) Barber shop	[\$60] <u>\$76</u>
[(7) Duplicate certificate, license, or permit	\$ 10
(8)] (7) Inactive fee	[\$10] <u>\$12</u>
[(9)](8)Reactivation fee:	
(A) Barber	[\$10] <u>\$12</u>
(B) Barber shop	[\$30] <u>\$36</u>
[(10)] (9)Restoration fees:	
(A) Barber	\$ 50
(B) Barber shop	\$ 100
[(11)] (10) Compliance resolution fund:	
(A) Compliance resolution fund fee	[\$35] <u>\$50</u>
(B) Annual compliance resolution fund fee	[\$35] <u>\$50</u>
(C) Biennial compliance resolution fund fee	[\$70] <u>\$100</u>
[Eff 9/30/83; am and comp 6/7/85; comp 12/7/85;	am and
comp 10/3/86; am and comp 5/1/87; comp 12/7/8	
11/25/88; am and comp 12/21/89; comp 10/4/91;	am and
comp 6/10/94; am and comp 7/18/94; am and comp	6/13/00;
comp 11/22/02; am and comp 7/21/08; comp 9/2/10	; am and
comp] (Auth: HRS	§§26-9,
436B-13.3, 438-11) (Imp: HRS §§26-9, 436B-	13.3,
438-11)	

§16-53-14 <u>Beauty culture.</u> The fees for the board of barbering and cosmetology shall be as provided in this section:

(1)	Appli	ication fees:		
AG 20	(A)	Operator or instructor	\$	20
	(B)	Beauty shop	\$	50
	(C)	Beauty school	\$	500
	(D)	Apprentice	\$	20
(2)		nination and other examination related fees as de		ed by
	agree	ment between the board and a professional testing s	service	
(3)	Origi	nal license or permit fees:		
	(A)	Operator or instructor	[\$]	15] <u>\$22</u>
	(B)	Beauty shop	[\$2	25] <u>\$38</u>
	(<u>C</u>)	Beauty shop relocation	<u>\$</u>	<u>38</u>
100	11 2 3 3 3 3 3 3		¢	00

(D)	Beauty shop ownership change or transfer	<u>\$</u> <u>38</u>
[(C)]	(E) Beauty school (annual registration)	[\$250] <u>\$350</u>

		F) Apprentice	[\$25]] <u>\$37</u>
(4)		tor or instructor license fees:		
	(A)	First year of the biennium (original license	a	
		fee, plus one-half of the biennial renewal fee)	[\$30]] <u>\$45</u>
	(B)	Second year of the biennium (original license		
		fee)	[\$15]] <u>\$22</u>
(5)	Beauty	y shop original, beauty shop relocation, and beauty		
	<u>shop o</u>	wnership change or transfer license fees:		
	(A)	First year of the biennium (original license		
		fee, plus one-half of the biennial renewal fee)	[\$50] <u>\$76</u>
	(B)	Second year of the biennium (original license		
		fee)	[\$25] <u>\$38</u>
(6)	Tempo	orary permit fee	\$	40
(7)	Renew	val fees:		
	(A)	Biennial renewal fee for operator or instructor	[\$30] <u>\$46</u>
	(B)	Biennial renewal fee for beauty shop	[\$50] <u>\$76</u>
	(C)	Annual renewal fee for beauty school with		
		twenty-six or more students during the		
		past year	[\$35	0] <u>\$490</u>
	(D)	Annual renewal fee for beauty school with less		
		than twenty-six students during the past year	[\$20	00] <u>\$280</u>
(8)	Inactiv	ve fee	[\$10)] <u>\$12</u>
(9)	Reacti	ivation [fee:] fees:		
	(A)	Beauty operator or instructor	[\$10)] <u>\$12</u>
	(B)	Beauty shop	[\$30)] <u>\$36</u>
	(C)	Beauty school	[\$50)] <u>\$60</u>
(10)	Restor	ration fees:		
	(A)	Restoration fee for failure to renew operator or	instru	ctor
		license shall be the penalty fee of \$25, in addition	ion to	all
		delinquent fees for each renewal.		
	·(B)	Restoration fee for failure to renew beauty shop lic	ense s	hall
		be the penalty fee of \$100, in addition to all deline	juent i	fees
		for each renewal.		
	(C)	Restoration fee for failure to renew beauty school	ol lice	ense
		shall be the penalty fee of \$100, in addition to all c	lelinqu	lent
		fees for each renewal.		
[(11)	Dupli	cate permit or license	- \$	10
(12)] (1		upliance resolution fund:		
10 BI	(A)	Compliance resolution fund fee	[\$3:	5] <u>\$50</u>
	(B)	Annual compliance resolution fund fee	[\$3:	5] <u>\$50</u>
		π		

(C) Biennial compliance resolution fund fee [\$70] \$100 [Eff 9/30/83; am and comp 6/7/85; comp 12/7/85; am and comp 10/3/86; am and comp 5/1/87; comp 12/7/87; comp 11/25/88; am and comp 12/21/89; comp 10/4/91; am and comp 6/10/94; am and comp 7/18/94; am and comp 6/13/00; comp 11/22/02; am and comp 7/21/08; comp 9/2/10; am and comp] (Auth: HRS §\$26-9, 436B-13.3, 436B-15) (Imp: HRS §\$26-9, 436B-13.3, 439-11, 439-15, 439-16, 439-17, 439-18)

<u>§16-53-14.5</u> <u>Behavior analysts.</u> The fees for behavior analysts shall be as provided in this section:

(1)	Application fee	<u>\$</u> \$	<u>50</u>
<u>(2)</u>	Original license fee	\$	<u>50</u>
<u>(3)</u>	License fees:		
	(A) First year of the biennium (original license fee,		
	plus one-half of the biennial renewal fee)	<u>\$</u>	<u>110</u>
	(B) Second year of the biennium (original license fee)	<u>\$</u>	<u>50</u>
<u>(4)</u>	Biennial renewal fee	\$ <u> </u> \$ <u> </u> \$ <u> </u>	<u>120</u>
<u>(5)</u>	Inactive and reactivation fee	<u>\$</u>	<u>12</u>
(6)	Restoration for failure to renew registration shall be the		
	delinquent fees plus the penalty fee of \$100, in addition to		
	the biennial renewal fee in paragraph (3)		
(7)	Compliance resolution fund reimbursement fee collected		
	until \$40,000 is transferred to the compliance resolution fur	<u>1d\$</u>	<u>50</u>
(8)	Compliance resolution fund:		
	(A) Compliance resolution fund fee	<u>\$</u>	<u>50</u>
	(B) Annual compliance resolution fund fee	<u>\$</u> <u>\$</u> \$	<u>50</u>
	(C) Biennial compliance resolution fund fee	<u>\$</u>	<u>100</u>
	[Eff and comp] (Auth: HR:	S §§	26-9,
	436B-13.3, Act 199, SLH 2015) (Imp: HRS §§26	-9, 4	-36B-
	13.3, Act 199, SLH 2015)		

§16-53-15 <u>Boxing</u>. The fees for the boxing commission shall be as provided in this section:

- (1) Examination and reexamination fees:
 (A) Referee, judge, and manager \$ 30
 - (i) Examination handscore fee \$ 20

		(ii) Examination review fee	\$ 25	
	(B)	Second	\$ 30	
		(i) Examination handscore fee	\$ 20	
		(ii) Examination review fee	\$ 25	
(2)		se fees:		
	(A)	Professional promoter (county of Honolulu)	[\$200] <u>\$38(</u>	<u>)</u>
	(B)	Professional promoter (county other than		
		Honolulu)	[\$75] <u>\$142</u>	
	(C)	Professional promoter (single promotion,		
		county of Honolulu)	[\$100] <u>\$190</u>	<u>)</u>
	(D)	Professional promoter (single promotion,		
		county other than Honolulu)	[\$50] <u>\$95</u>	
	(E)	Amateur promoter (county of Honolulu)	[\$75] <u>\$142</u>	
	(F)	Amateur promoter (county other than	W	
		Honolulu)	[\$40] <u>\$75</u>	
	(G)	Physician	[\$25] <u>\$47</u>	
	(H)	Referee	[\$50] <u>\$95</u>	
	(I)	Judge	[\$25] <u>\$47</u>	
	(J)	Manager	[\$50] <u>\$95</u>	
	(K)	Timekeeper	[\$10] <u>\$19</u>	
	(L)	Second	[\$10] <u>\$19</u>	
	(M)	Boxer	[\$15] <u>\$28</u>	
	(N)	Matchmaker	[\$15] <u>\$28</u>	
	[(O)	Duplicate license	\$ 10]	
(3)		nnual renewal fee shall be equivalent to the license fee	e for each	
		ctive license set forth in paragraph (2).		
(4)	100	pliance resolution fund:		
	(A)	Compliance resolution fund fee	[\$35] <u>\$50</u>	
	(B)	Annual compliance resolution fund fee	[\$35] <u>\$50</u>	
	(C)	Biennial compliance resolution fund fee	[\$70] <u>\$100</u>	!
		[Eff 9/30/83; am and comp 6/7/85; comp 12/7/85	er ander i herdensen	
		comp 10/3/86; am and comp 5/1/87; am and comp		
		comp 11/25/88; comp 12/21/89; comp 10/4/91;		
		comp 6/10/94; am and comp 7/18/94; am and comp	1 (5 1)	
		comp 11/22/02; comp 7/21/08; comp 9/2/10;		
		comp] (Auth: HRS §§26-9	, 440-11,	
		440-13) (Imp: HRS §§26-9, 440-11, 440-13)		

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816.5	53-15.5 Cemetery and funeral trusts. The fees for cer	metery and
	eral authorities shall be as provided in this section:	inotory and
		\$ 100
(1)	Application fee	38-5 (FARDSCOP)
(2)	Original license fee	[\$200] <u>\$320</u>
(3)	License fees:	
3.0	(A) First year of the biennium (original license	÷
	fee, plus one-half of the biennial renewal fee)	[\$400] <u>\$640</u>
	(B) Second year of the biennium (original license	
	fee)	[\$200] <u>\$320</u>
(4)	Biennial renewal fee	[\$400] <u>\$640</u>
(5)	Restoration fee for failure to renew license shall be the pe	enalty fee of
(5)	\$40, in addition to delinquent renewal fees[.]	2
(6)	Reinstatement fee for a suspended license shall be the pe	enalty fee of
(0)	\$200, in addition to delinquent renewal fees[.]	indity 100 of
	Reissuance of license fee	\$ 10
(7)		φΙΟ
(8)	Compliance resolution fund:	rec = 1 07 4
	(A) Compliance resolution fund fee	[\$55] <u>\$74</u>
	(B) Annual compliance resolution fund fee	[\$55] <u>\$74</u>
	(C) Biennial compliance resolution fund fee	[\$110] <u>\$148</u>
	[Eff and comp 11/25/88; comp 12/21/89; comp	10/4/91; am
	and comp 6/10/94; am and comp 7/18/94; cor	np 6/13/00;
	comp 11/22/02; comp 7/21/08; comp 9/2/10	
	comp] (Auth: HRS §§26	
22	(Imp: HRS §§26-9, 441-29, 441-31)	5. 95. (1998) (1998)
	(

§16-53-16 Chiropractic. The fees for the board of chiropractic examiners shall be as provided in this section:

o ao pro		
(1)	Application fee	\$ 50
(2)	Examination and reexamination fees	\$ 100
(3)	Examination handscore fee	\$ 20
(4)	Examination review fee	\$ 25
(5)	Original license fee	[\$75] <u>\$96</u>
(6)	License fees:	
	(A) First year of the biennium (original license	
	fee, plus one-half of the biennial renewal fee)	[\$150] <u>\$193</u>
	(B) Second year of the biennium (original	
	license fee)	[\$75] <u>\$96</u>
(7)	Biennial renewal fee [for chiropractic license]	[\$150] <u>\$194</u>
(8)	Inactive fee	[\$10] <u>\$12</u>

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(9) (10)	Reinst	vation fee atement fee for suspended chir			\$	0] <u>\$36</u> 200
(11)		ation for failure to renew cl y fee of \$100, in addition to all	_		l be	the
(12)	Contin	uing education sponsor applic	ation and			
	renewa	al fee		()	\$	25
(13)	Compl	liance resolution fund:				
	(A)	Compliance resolution fund	fee		[\$5	5] <u>\$74</u>
	(B)	Annual compliance resolutio	on fund fee		[\$5	5] <u>\$74</u>
	(C)	Biennial compliance resoluti	on fund fee		[\$1	10] <u>\$148</u>
		[Eff 9/30/83; am and com	p 6/7/85; comp	12/7/8	5; c	omp
		10/3/86; am and comp 5/1/8	37; am and com	0 12/7/8	37; c	omp
		11/25/88; am and comp 12/2	21/89; am and co	mp 10/	4/91	; am
		and comp 6/10/94; am and	1 comp 7/18/94	; am a	nd c	omp
		6/13/00; comp 11/22/02;	am and comp	7/21/0	8; c	comp
		9/2/10; am and comp]	(Auth	:	HRS
		§§26-9, 436B-13.3, 442-18)	(Imp: HRS §§2	26-9, 43	6B-	13.3,
		442-2, 442-6, 442-11, 442-1	8)			

§16-53-16.3 <u>Collection agencies</u>. The fees for collection agencies <u>and</u> <u>exempt out-of-state collection agencies</u> shall be as provided in this section:

(1)	Applic	eation fee	\$	25
(2)	Regist	ration fees:		
	(A)	First year of biennium (original registration fee,		
		plus one-half of the biennial renewal fee)	[\$8	0] <u>\$136</u>
	(B)	Second year of the biennium (original registration		
		fee)	[\$4	0] <u>\$68</u>
(3)	[Rene	wal] <u>Biennial renewal</u> fee	[\$8	0] <u>\$136</u>
[(4)	Inactiv	ve fee	\$	10
(5)	Reacti	vation fee	\$	30
(6)] <u>(4</u>) Restor	ration fee	\$	80
[(7)	Duplic	cate identification fee	\$	10
(8)]	Duplic	cate certificate fee	\$	10]
[(9)] (<u>5)</u>	Compliance resolution fund:		
	(A)	Compliance resolution fund fee	[\$5	5] <u>\$74</u>
	(B)	Annual compliance resolution fund fee	[\$5	5] <u>\$74</u>
	(C)	Biennial compliance resolution fund fee	[\$1	10] <u>\$148</u>
		[Eff and comp 11/25/88; comp 12/21/89; comp 10/	4/91	; am
		and comp 6/10/94; am and comp 7/18/94; am a	nd c	omp

6/13/00; comp 11/22/02; am and comp	7/21/08; comp	
9/2/10; am and comp] (Auth: HRS	
§§26-9, 436B-13.3, 436B-15) (Imp:	HRS §§26-9,	
436B-13.3, 436B-15, 443B-3, 443B-3.5)		

§16-53-16.5 <u>Commercial employment agencies</u>. The fees for commercial employment agencies and principal agents shall be as provided in this section:

Jio Junome a	Semeres	Pres Pres	FB		
(1)	Applie	cation fe	ees:		
	(A)	Agend	cies [and branch offices]	\$	50
	(B)	Princi	pal agents	\$	25
(2)	Exam	ination	and other examination related fees as deterr	ninec	l by
	agreer	nent bei	tween the department and a professional testing	g serv	vice
(3)	Origir	al licen	se fees:		
	(A)	Agend	cies [and branch offices]	[\$6	D] <u>\$90</u>
	(B)	Princi	pal agents	[\$2:	5] <u>\$37</u>
(4)	Licens	se fees:		100	
	(A)	Agend	cies [and branch offices]:		
		(i)	First year of biennium (original		
			license fee, plus one-half of the		
¢.	\$5		biennial renewal fee)	[\$1	10] <u>\$165</u>
		(ii)	Second year of biennium (original		
			license fee)	[\$6	0] <u>\$90</u>
	(B)	Princi	pal agents:		
		(i)	First year of biennium (original license fee,		
		÷	plus one-half of the biennial renewal fee)	[\$5	0] <u>\$74</u>
		(ii)	Second year of biennium (original		
			license fee)	[\$2	5] <u>\$37</u>
(5)	-		ennial renewal fees:	5 6 4	
	(A)		cies [and branch offices]	The second second	00] <u>\$150</u>
	(B)		pal agents	[\$5	0] <u>\$74</u>
(6)			ee for failure to renew shall be a	•	
		y fee of	· where the state of the state	\$	80
[(7)	-		ntification cards:	¢	10
			cies and branch offices	\$	10
225	(B)		pal agents	\$	10
(8)	-		tificate fee	\$	10
			or principal agent and agency	[\$1	0] <u>\$12</u>
[(10)] <u>(8</u>				ርሱ ተ	01 0 1 0
	(A)	Princi	pal agent	[\$1	0] <u>\$12</u>

(B)	Agency	[\$30] <u>\$36</u>
[(11)] (<u>9)</u> Comp	liance resolution fund:	
(A)	Compliance resolution fund fee	[\$35] <u>\$50</u>
(B)	Annual compliance resolution fund fee	[\$35] <u>\$50</u>
(C)	Biennial compliance resolution fund fee	[\$70] <u>\$100</u>
	[Eff and comp 11/25/88; am and comp 12/21/	89; comp
	10/4/91; am and comp 6/10/94; am and comp 7/2	18/94; am
	and comp 6/13/00; comp 11/22/02; am and comp	7/21/08;
	comp 9/2/10; am and comp] (Auth:
	HRS §§26-9, 436B-13.3, 436B-15) (Imp: HRS	S §§26-9,
	373-3, 436B-13.3)	

§16-53-16.8 <u>Condominium property regimes.</u> The fees for condominium property regimes shall be as provided in this section:
 (1) For each project registration and each developer-prepared public

ty regin	105 51141	toe as provided in this section.				
(1)		ach project registration and each developer-prepare	d pu	ıblic		
	report:					
	(A)	Application fee	\$	250		
	(B)	Notice of intention registration fee	\$	250		
		(the application fee shall be credited				
		to this registration fee)				
	(C)	Subsequent public report fee	\$	150		
	(D)	Supplementary public report fee	\$	75		
	(E)	Public report extension fee	\$	50		
	(F)	Two apartment no expiration; exception	\$	100		
	(G)	Condominium consultant fee for the review and exa	mina	ation		
of a project registration application, a developer-prepa						
		public report, any amendments to the developer-	prep	ared		
	6)	public report, and the developer's submitted docum	ents	and		
		information shall be determined by an agreement				
		the director and the condominium consultant[.]				
	(H)	Amendment to each developer-prepared public				
	• •	report	\$	75		
	(I)	Amended developer-prepared public report				
		(full amended report)	\$	75		
	(J)	Annual report	\$	50		
(2)	12 Mar 19 Mar	ominium managing agent:				
(-)		Application fee	[\$5	0] <u>\$64</u>		
	(B)	Original registration fee	LΨ⊃			
		(i) First year of the biennium	[\$1	00] \$130		
			[Ψ1	<u>φτου</u>		

		(ii) Second year of the biennium	_	0] <u>\$64</u>	
	(C)	Biennial re-registration fee	[\$100] <u>\$130</u>		
	(D)	Compliance resolution fund:			
		(i) Compliance resolution fund fee	[\$35] <u>\$50</u>		
		(ii) Annual compliance resolution fund fee	[\$3	5] <u>\$50</u>	
	•	(iii) Biennial compliance resolution fund fee	[\$7	0] <u>\$100</u>	
	(E)	Application for bond alternative or bond			
11. 11.		exemption fee:			
		(i) Original application	\$	50	
		(ii) Biennial application	\$	50	
(3)	Conde	ominium association:			
	(A)	Application fee	\$	25	
	(B)	Initial biennial registration fee	[\$5	0] <u>\$64</u>	
		(the application fee shall be credited	nae Yaki		
		to this registration fee)			
	(C)	Biennial reregistration fee	[\$5	0] <u>\$64</u>	
	<u>(D)</u>	Compliance resolution fund:			
		(i) Compliance resolution fund fee	<u>\$</u>	<u>50</u>	
		(ii) Annual compliance resolution fund fee	<u>\$</u> \$	<u>50</u>	
		(iii) Biennial compliance resolution fund fee	<u>\$</u>	<u>100</u>	
	[(D)]	(E) Application for bond exemption or bond alternativ	e fee	:	
		(i) Original application	\$	50	
		(ii) Biennial re-registration	\$	50	
(4)	Cond	ominium education fund:			
	(A)	Annual association fee per apartment	\$	3.50	
	(B)	Biennial association fee per apartment	\$	7	
	(C)	Developer fee per apartment	\$	10	
		[Eff and comp 11/25/88; am and comp 12/21/89;	, am	and	
		comp 10/4/91; am and comp 6/10/94; am and comp	7/18	3/94;	
		am and comp 6/13/00; comp 11/22/02; comp 7/21/0)8; c	omp	
		9/2/10; am 12/31/12; am and comp]	
		(Auth: HRS §§26-9, 514A-32, 514A-36, 514A-39.	5, 5	14A-	
		40, 514A-41, 514A-43, 514B-52, 514B-54, 514B-5	6, 5	14 B-	
		73, 514B-103, 514B-132) (Imp: HRS §§26-9, 1	514A	\-32 ,	
		514A-36, 514A-37, 514A-39.5, 514A-40, 3	514A	\-41 ,	
		514A-43, 514A-95, 514A-95.1, 514B-52,	514E	3-54,	
8		514B-56, 514B-58, 514B-71, 514B-72, 514B-73, 5	14B-	·103,	
		514B-132)			

		Contractors. The fees for the contractors license bo	ard shal	l be		
as provided in			¢	50		
(1)		cation fee	\$	50		
(2)		cation fee for [additional classification] bond	rd a			
		er and entity conversion		[\$50] <u>\$25</u>		
(3)		ination and other examination related fees as det		l by		
25 W.G	2.76	ment between the board and a professional testing se	ervice			
(4)	<u> </u>	nal license fees:				
	(A)	Contracting entity	_	00] <u>\$260</u>		
	(B)	Responsible managing employee	[\$20	00] <u>\$260</u>		
(5)		se fees for contracting entity:				
	(A)	First year of the biennium (original license	1			
		fee, plus one-half of the biennial renewal fee)	[\$2	75] <u>\$355</u>		
	(B)	Second year of the biennium (original				
		license fee)	[\$2	00] <u>\$260</u>		
(6)	Licer	se fees for responsible managing employee:				
	(A)	First year of the biennium (original license				
		fee, plus one-half of the biennial renewal fee)	[\$2	25] <u>\$290</u>		
	(B)	Second year of the biennium (original				
		license fee)	[\$2	00] <u>\$260</u>		
(7)	Reco	very fund fee for contracting entity	\$	150		
(8)	Educ	ation fund fee for contracting entity	\$	10		
(9)	Bien	nial renewal fees:	*			
	(A)	Contracting entity	[\$1	50] <u>\$190</u>		
	(B)	Responsible managing employee	[\$5	0] <u>\$60</u>		
25	(C)	Education fund	\$	5		
	(D)	Recovery fund	\$	10		
(10)	Resto	pration fee for failure to renew license shall				
	be th	e penalty fee of \$50, in addition to the biennial				
	renev	wal fee in paragraph (9).				
(11)	Inact	ive license <u>fee</u>	[\$1	.0] <u>\$12</u>		
(12)	Reac	tivation fee	[\$5	50] <u>\$60</u>		
[(13)	Statu	is change fee	\$	50		
(14)	Bond	l waiver fee	\$	25		
(15)	Dupl	icate license	\$	10		
(16)](13)	Compliance resolution fund:				
	(A)	Compliance resolution fund fee	[\$5	55] <u>\$74</u>		
	(B)	Annual compliance resolution fund fee		55] \$74		
	(C)	Biennial compliance resolution fund fee		10] <u>\$148</u>		
[(17)] <u>(1</u> -	and Same	overy fund assessment fee shall be as determined by	14 C 1 C 1 C 1 C 1 C 1 C 1 C 1 C 1 C 1 C			

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[(18)] (15) Restoration fee for failure to pay the assessment fee shall be the penalty fee of \$10, in addition to the assessment fee in paragraph [(17).] (14) [Eff and comp 6/7/85; comp 12/7/85; am and comp 10/3/86; am and comp 5/1/87; am and comp 12/27/87; am and comp 11/25/88; am and comp 12/21/89; comp 10/4/91; am and comp 6/10/94; am and comp 7/18/94; am and comp 6/13/00; comp 11/22/02; am and comp 7/21/08; comp 9/2/10; am and comp] (Auth: HRS §\$26-9, 436B-13.3, 444-7.5, 444-12, 444-15, 444-26) (Imp: HRS §\$26-9, 436B-13.3, 444-7.5, 444-8, 444-10.6, 444-11, 444-12, 444-15, 444-26)

§16-53-18 <u>Dental hygienists.</u> The fees for the board of dental examiners shall be as provided in this section:

/1	·	A	- time [fra] frage						
(1)		ation [fee] fees:	re o	<u> በ ቀኖ</u> ቡ				
		<u>(A)</u>	Dental hygienist license	19 2	0] <u>\$50</u>				
		<u>(B)</u>	Temporary license	<u>\$</u>	<u>50</u>				
		<u>(C)</u>	Community service dental hygienist						
			license	<u>\$</u>	<u>75</u>				
		<u>(D)</u>	Certification in the administration of intra-oral						
			infiltration local anesthesia and intra-oral						
			block anesthesia	<u>\$</u>	<u>50</u>				
[(2	2)	Exami	nation and reexamination fee	<u>\$</u> \$	200				
(3	B	Exami	nation handscore fee	\$ \$	20				
(4		Exami	Examination review fee						
(5)] (2) Original dental hygienist license fee									
			nse] Dental hygienist license fees:						
		(A)	First year of the biennium (original license fee,						
			plus one-half of the biennial renewal fee)	[\$6	0] <u>\$96</u>				
		(B)	Second year of the biennium (original license						
			fee)	[\$4	-0] <u>\$64</u>				
[C	7)] (4) Temp	orary license fee	<u>\$</u>	<u>50</u>				
(5	STATE	Contraction of the second s	al community service dental hygienist license fee	\$	<u>50</u>				
[(8	200		ation fee for certification in the administration of i	ntra	-oral				
LX	1		tion local anesthesia and intra-oral block anesthesia:						
		(A)	Intra-oral infiltration local anesthesia	\$	10				
		(B)	Intra-oral block anesthesia	\$	25				
(9)] (6`		al renewal [fee] fees:	[\$	40]				
v	/	(A)	Dental hygienist biennial renewal		<u>64</u>				
		(B)	Community service dental hygienist annual renewal	\$	<u>55</u>				
(7) Ina	ctive fee		<u>\$</u> \$ \$	12				
<u> </u>	2		Z ,						

(8) <u>Reactivation fee</u> [(10)] (9) Restoration fee (10) <u>Continuing education provider application and renewal fee</u>	<u>\$</u> \$ \$	<u>60</u> 50 <u>50</u>
[(10)] (11) Compliance resolution fund: (A) Compliance resolution fund fee (D) A much semiliance resolution fund fee		5] <u>\$50</u>
 (B) Annual compliance resolution fund fee (C) Biennial compliance resolution fund fee 	[\$35] <u>\$50</u> [\$70] <u>\$100</u>	
comp] (Auth: HRS §§26-9	87; co nd co 00; co um	omp omp omp and
13.3, 447-1) (Imp: HRS §§26-9, 447-1, 447-15)		

§16-53-19 <u>Dentistry</u>. The fees for the board of dental examiners shall be as provided in this section:

(1)	Application [fee for practice of dentistry and dental						
	surger	y] <u>fees:</u>	[\$	50]			
	<u>(A)</u>	Dental license	<u>\$</u>	100			
	<u>(B)</u>	Temporary license	<u>\$</u> \$ \$	<u>75</u>			
	<u>(C)</u>	Community service dentist license	<u>\$</u>	100			
	<u>(D)</u>	Permit to administer general anesthesia and					
40		moderate sedation	<u>\$</u>	<u>100</u>			
[(2)	Exam	ination fees:					
	(A)	Practice of dentistry and dental surgery	\$	500			
	(B)	Restorative techniques examination	\$	200			
(3)	Reexa	amination fees:					
	(A)	Practice of dentistry and dental surgery					
		(i) Complete reexamination	\$	500			
		(ii) Partial reexamination (three parts or less)	\$	200			
	(B)	Restorative techniques reexamination	\$	200			
(4)	Exam	ination handscore fee	\$	20			
(5)	Exam	ination review fee	\$	25			
(6)] <u>(2</u>	2) Origi	nal dental license fee [to practice dentistry					
	[\$	75] <u>\$120</u>					
[(7)] (3) [Lice	ense] Dental license fees:					
	(A)	[To practice dentistry and dental surgery:					

			(i)]	First year of the biennium (original		
				license fee, plus one-half of the biennial	٢\$1	25] <u>\$200</u>
			[/::\]/]	renewal fee) 3) Second year of the biennium (original	[ψı	25] <u>\$200</u>
			[(11)][1	license fee)	[\$7	75] <u>\$120</u>
			Gener	al anesthesia registration	622	50]
	(A)	[(B) Tomp		ense fee	\$ <u>\$</u> \$	<u>75</u>
÷0	<u>(4)</u> (5)	Origin	al com	nunity service dental license fee	<u>₽</u> \$	125
	$(\underline{5})$	Comn	an com	ervice license fees:	<u>-</u>	-
	<u>(6)</u>	(A)	First x	ear of the biennium (original		
		(IX)	licens	e fee, plus one-half of the biennial		
		20		al fee)	<u>\$</u>	151
		<u>(B)</u>		d year of the biennium (original	_	
			licens		<u>\$</u>	<u>125</u>
	(7)	Gener		hesia and moderate sedation permit	<u>\$</u> <u>\$</u>	80
2	(8)			ennial renewal fees:		
	(-)	(A)	Bien	nial renewal fee to practice dentistry		
54		~ /		ental surgery] Dental license	[\$]	100] <u>\$160</u>
		<u>(B)</u>		nunity service license	<u>\$</u>	<u>52</u>
	[(B)]	<u>(C)</u>		nial renewal fee for general anesthesia]		
			Gener	al anesthesia and moderate		
				on permit		50] <u>\$80</u>
	<u>(9)</u>		<u>ve fee</u>		<u>\$</u> \$	<u>12</u>
	<u>(10)</u>		ivation		<u>\$</u>	<u>60</u>
[(9)] (<u>11)</u>			ee for [license to practice dentistry	•	1.50
		and d	ental su	rgery] <u>dental license</u>	\$	150
	<u>(12)</u>			ducation provider application and renewal fee	<u>\$</u>	<u>50</u>
[(10)]	(13)			esolution fund:	ΓΦ	ንደገ ውማለ
		(A)		bliance resolution fund fee		35] <u>\$74</u> 251 \$74
		(B)		al compliance resolution fund fee		35] <u>\$74</u>
		(C)		ial compliance resolution fund fee		70] <u>\$148</u>
				9/30/83; am and comp $6/7/85$; comp $12/7/8$		
				86; am and comp $5/1/87$; comp $12/7/87$; am a		
				7/88; comp 12/21/89; comp 10/4/91; am at 7/18/04; am at 2010 and 2		
				94; am and comp $7/18/94$; am and comp $6/13/102$		and
			11/22			
2			comp			
			13.3,	436B-15) (Imp: HRS §§26-9, 448-7, 448-9, 44	70-2	.0)

§16-5	3-19.5 Dispensing opticians. The fees for dispensing opticia	ans shall
be as provide	d in this section:	
(1)	Application fee for dispensing optician	\$ 20
(2)	Examination and other examination related fees as determ	nined by
	agreement between the department and a professional testing	service
(3)	Original license fee	[\$20] <u>\$28</u>
(4)	License fees:	
	(A) First year of the biennium (original license	
	fee, plus one-half of the biennial renewal fee)	[\$70] <u>\$98</u>
	(B) Second year of the biennium (original license	
	fee)	[\$20] <u>\$28</u>
(5)	Biennial renewal fee [for dispensing optician]	[\$100] <u>\$140</u>
(6)	Inactive fee and reactivation fee	[\$10] <u>\$12</u>
(7)	[Resoration] Restoration fee for late renewal shall be the pe	nalty fee
	of \$50, in addition to all delinquent fees.	
(8)	Compliance resolution fund:	
	(A) Compliance resolution fund fee	[\$35] <u>\$50</u>
	(B) Annual compliance resolution fund fee	[\$35] <u>\$50</u>
	(C) Biennial compliance resolution fund fee	[\$70] <u>\$100</u>
	[Eff and comp 11/25/88; comp 12/21/89; comp 10/	18
	and comp 6/10/94; am and comp 7/18/94; am a	
	6/13/00; comp 11/22/02; am and comp 7/21/0	
		h: HRS
	§§26-9, 436B-13.3, 436B-15) (Imp: HRS §§26-9), 436B-
	13.3, 458-6.5, 458-8)	

§16-53-20 <u>Electricians and plumbers</u>. The fees for the board of electricians and plumbers shall be as provided in this section:

- Application fee \$ 40
 Examination and other examination related fees for electricians and plumbers as determined by agreement between the board and a professional testing service
- (3) Original license fee
- (4) License fees:
 - (A) Plumbers (i) Fin
 - First year of the biennium (original license fee, plus one-half of the biennial renewal fee)

80

\$

[\$40] <u>\$52</u>

23

		(ii)	Second year of the biennium (original license fee)	; \$	40
	(B)	Electr		Ψ	10
	(D)) First year of the triennium (original		
		(I)](A)	license fee, plus two-thirds of the		
				٢¢1′	201 \$156
		F(!'\ 1 /1	triennial renewal fee)	[φι,	20] <u>\$156</u>
		[(11)][]	B) Second year of the triennium (original		
			license fee, plus one-third of the	۲. COD	
			triennial renewal fee)	[\$81	0] <u>\$104</u>
		[(iii)] <u>(</u>	<u>C)</u> Third year of the triennium (original	and to	8
			license fee)	- 10 M	0] <u>\$52</u>
[(5)			wal fee for plumbers	\$	80
			ewal fee [for electricians]		20] <u>\$156</u>
[(7)](6	<u>)</u> Inactiv	ve fee		[\$1	0] <u>\$12</u>
[(8)](7)Reacti	vation	fee	[\$3	0] <u>\$36</u>
[(9)](8	B)Restor	ration fe	ees for failure to renew a license shall be a pe	enalty	fee
	of \$10	0 and a	ll delinquent fees.		
[(10)] <u>(9</u>) Comp	liance r	esolution fund:		
-	(A)	Comp	liance resolution fund fee	[\$3	5] <u>\$50</u>
	(B)	Annu	al compliance resolution fund fee	[\$3	5] <u>\$50</u>
	[(C)		ial compliance resolution fund fee	\$70	
			nial compliance resolution fund fee	[\$7	0] <u>\$150</u>
			and comp 6/7/85; comp 12/7/85; am ar	nd co	omp
			36; am and comp 5/1/87; am and comp 12/7/8		
			/88; am and comp 12/21/89; comp 10/4/91;		
			6/10/94; am and comp 7/18/94; am ar		
			00; comp 11/22/02; am and comp 7/21/0		
); am and comp] (Aut		-
			9, 436B-13.3, 436B-15, 448E-5.5) (Imp		IRS
			9, 436B-13.3, 448E-8, 448E-8.5)		
		0.0	v 		
					• • •

§16-53-20.1 Electrologists. The fees for electrologists shall be as provided in this section:

(1) Application fee 50

\$

- Examination and other examination related fees as determined by (2)agreement between the department and a professional testing service [\$25] <u>\$48</u>
- Original license fee[:] (3)
- License fees: (4)

	(A)	First year of the biennium (original license		
		fee, plus one-half of the biennial renewal fee)	[\$50	0] <u>\$96</u>
	(B)	Second year of the biennium (original		
	2000 - 20 9 7	license fee)	[\$2:	5] <u>\$48</u>
[(4)] <u>(5</u>	[\$50] <u>\$96</u>			
[(5)](6) Inactive fee and reactivation fee				0] <u>\$12</u>
[(6)](7)Restoration fee			\$	50
[(7)	- Duplicate license fee			10]
(8)	Comp	liance resolution fund fee:		
	(A)	Compliance resolution fund fee	[\$3:	5] <u>\$50</u>
	(B)	Annual compliance resolution fund fee	[\$3	5] <u>\$50</u>
	(C)	Biennial compliance resolution fund fee	[\$7	0] <u>\$100</u>
		[Eff and comp 6/13/00; comp 11/22/02; am an	nd co	omp
		7/21/08; comp 9/2/10; am and comp]
		(Auth: HRS §§26-9, 436B-13.3, 436B-15) (Imp	p: I	HRS
		§§26-9, 436B-13.3, 448F-5, 448F-9)		

§16-53-21 <u>Elevator mechanics</u>. The fees for the elevator mechanics licensing board shall be as provided in this section:

0		1					
(1)	Applie	cation f	ee for elevator mechanics:				
	(A)	Temp	orary permit	\$	40	X.8.2	
	(B)	Licen	se	\$	40		
	(C)	Appro	entice permit	\$	40		
(2) Examination and other examination related fees as determined							
	agreement between the board and a professional testing service						
(3)	Origir	nal license fee [\$50] <u>\$70</u>					
(4)) License and permit fees:						
	(A)	Temp	porary permit	\$	60		
	(B)	Appro	entice permit	\$	60		
	(C)	Licen					
		(i)	First year of the biennium (original				
			license fee, plus one-half of the				
			biennial renewal fee)	[\$10	00] <u>\$1</u>	<u>40</u>	
		(ii)	Second year of the biennium (original				
			license fee)	[\$50	0] <u>\$70</u>		
(5)	Bienn	nial renewal fee [for license]			[\$100] <u>\$140</u>		
(6)							
of \$100 and all delinquent fees[.]							
(7)	Compliance resolution fund:						
	-						

(A)	Compliance resolution fund fee	[\$35] <u>\$50</u>		
(B)	Annual compliance resolution fund fee	[\$35] <u>\$50</u>		
(C)	Biennial compliance resolution fund fee	[\$70] <u>\$100</u>		
	[Eff 9/30/83; am and comp 6/7/85; comp 12	2/7/85; comp		
	10/3/86; am and comp 5/1/87; am and comp 1	2/7/87; comp		
	11/25/88; comp 12/21/89; comp 10/4/91; ar			
	6/10/94; am and comp 7/18/94; am and comp 6			
	11/22/02; comp 7/21/08; comp 9/2/10			
	comp] (Auth: HRS §§2			
	(Imp: HRS §§26-9, 448H-8)			

§16-53-21.5 <u>Emergency medical</u> [technicians and mobile intensive care technicians.] <u>technician-basic (EMT-B)</u> and <u>emergency medical technician-paramedic (EMT-P)</u>. The fees for [emergency medical technicians (EMT) and mobile intensive care technicians (MICT)/board of medical examiners] <u>EMT-B</u> and <u>EMT-P</u> shall be as provided in this section:

(1) Application fee

\$ 20

30

- (2) Examination fees:
 - (A) [EMT] <u>EMT-B</u>
 - National Registry examination and other examination related fees as determined by agreement between the board and a professional testing service

(ii) National Registry exam administration \$

(B) [MICT] <u>EMT-P</u>

 National Registry examination and other examination related fees as determined by agreement between the board and a professional testing service

National Registry exam administration \$ 200

- (3) Reexamination fees shall be as set forth in paragraph (2), except the [MICT] <u>Paramedic</u> National Registry exam administration fee shall be \$30 for the written reexamination, and \$170 for the practical reexamination[.]
- (4) Original certification fee

(ii)

[\$25] \$32

(5) Certification fees:

(A) First year of the biennium (original certification fee, plus one-half of the biennial renewal fee) [\$40] <u>\$51</u>

	(B)	Second year of the biennium		
		(original certification fee)	[\$25] <u>\$32</u>	
(6)	[Renev	val] <u>Biennial renewal</u> fee	[\$30] <u>\$38</u>	
(7)	Restor	ation fee	\$ 40	
(8)	Compl	iance resolution fund:		
	(A)	Compliance resolution fund fee	[\$45] <u>\$74</u>	
	(B)	Annual compliance resolution fund fee	[\$45] <u>\$74</u>	
	(C)	Biennial compliance resolution fund fee	[\$90] <u>\$148</u>	
		[Eff and comp 11/25/88; am and comp 12/21/89;		
	comp 10/4/91; am and comp 6/10/94; am and comp 7/18/94;			
		am and comp 6/13/00; comp 11/22/02; comp 7/21/0)8; comp	
		9/2/10; am and comp] (Auth	: HRS	
§§26-9, 453-32) (Imp: HRS §§26-9, 453-32, 453-32.			2.1, 453-	
		32.51)		
			2	

§16-53-22 <u>Hearing aid dealers and fitters</u>. The fees for hearing aid dealers and fitters shall be as provided in this section:

(1)	Applic	cation fee	\$	30	
[(2)	Exami				
	(A)] (2) Written examination and other examination related fees as				
	determined by agreement between the department and a				
		professional testing service			
	[(B)	Practical	\$	25	
(3)	Exami	nation handscore fee for the practical examination	\$	20	
(4)	Exami	nation review fee for the practical examination	\$	25	
(5)] (3	(5)] (3) Original license fee			0] <u>\$48</u>	
[(6)](4)Licens	se fees:			
(A) First year of the biennium (original license fee,					
	plus one-half of the biennial renewal fee)			0] <u>\$128</u>	
	(B) Second year of the biennium (original				
		license fee)	[\$3	0] <u>\$48</u>	
[(7)](5)[Renewal fee:]					
Biennial renewal fee [for hearing aid dealer					
	and fitter]			[\$100] <u>\$160</u>	
[(8)				\$ 50	
	(9)](6) Inactive fee and reactivation fee			0] <u>\$12</u>	
[(10)](7) Restoration fees:					
	(A)	Within thirty days from date of [delinquency]	÷ .		
	. ,	expiration	\$	150	
			10.00		

.

After thirty days from date of [delinquency] (B) expiration

200 \$

[(11)] (8) Compliance resolution fund:

(A)

- Compliance resolution fund fee [\$55] <u>\$50</u> [\$55] \$50
- Annual compliance resolution fund fee (B)
- Biennial compliance resolution fund fee [\$110] <u>\$100</u> (C)[Eff 9/30/83; am and comp 6/7/85; comp 12/7/85; am and comp 10/3/86; am and comp 5/1/87; comp 12/7/87; comp 11/25/88; comp 12/21/89; comp 10/4/91; am and comp 6/10/94; am and comp 7/18/94; am and comp 6/13/00; comp 11/22/02; am and comp 7/21/08; comp 9/2/10; am and] (Auth: HRS §§26-9, 436B-13.3, comp 436B-15, 451A-6) (Imp: HRS §§26-9, 436B-13.3, 451A-7, 451A-8)

§16-53-22.5 Marriage and family therapists. The fees for marriage and family therapists shall be as provided in this section:

/							
	(1)	Application fee	\$ 50				
	(2)	Examination and other examination related fees as determined by					
		agreement between the department and a professional testing service					
	(3)	Examination administration fee	\$30				
	(4)	Original licensee fee	[\$45] <u>\$76</u>				
	(5)	Triennial renewal fee	[\$150] <u>\$25</u> :	5			
	(6)	Inactive fee and reactivation fee	[\$10] <u>\$12</u>				
	(7)	Restoration fee for failure to renew license shall be \$100, in addition					
		to the triennial renewal fee in paragraph (5)					
	(8)	Compliance resolution fund:					
		(A) Compliance resolution fund fee	[\$35] <u>\$50</u>				
	×	(B) Annual compliance resolution fund fee	[\$35] <u>\$50</u>				
		(C) Triennial compliance resolution fund fee	\$105] <u>\$150</u>)			
		[Eff and comp 6/13/00; comp 11/22/02; am and comp					
		7/21/08; comp 9/2/10; am and comp]				
		(Auth: HRS §§26-9, 436B-13.3, 451J-4) (Imp: HRS §§26-					
		9, 436B-13.3, 451J-4, 451J-9, 451J-10)					

§16-53-23 Massage therapy. The fees for the board of massage shall be as provided in this section:

(1)Application fees:

	(A) (B) (C)	Massa	ge therapist ge therapy establishment ge therapy apprentice registration	\$ \$ \$	50 25 50
	(D)		ge therapy workshop	\$	50
(2)			and other examination related fees as determ	19 A	
(-)			ween the board and a professional testing servi		, oʻj
(3)	-	al licen			
(-)	(A)		ge therapist	[\$2:	5] <u>\$32</u>
	(B)		ge therapy establishment		5] \$32
(4)		se fees:		-	
	(A)	Massa	ge therapist:		
		(i)	First year of the biennium (original		
			license fee, plus one-half of the		
			biennial renewal fee)	[\$50	0] <u>\$64</u>
		(ii)	Second year of the biennium (original		
			license fee)	[\$2:	5] <u>\$32</u>
	(B)	Massa	age therapy establishment:		
		(i)	First year of the biennium (original		
			license fee, plus one-half of the	1	want ingelateria
			biennial renewal fee)	[\$5	0] <u>\$64</u>
		(ii)	Second year of the biennium (original		
	1		license fee)	[\$2	5] <u>\$32</u>
(5)			wal fees:	-	0.0
	(A)		age therapist		0] <u>\$64</u>
	(B)		age therapy establishment		0] <u>\$64</u>
(6)	Inacti			[\$1	0] <u>\$12</u>
(7)			[fee:] <u>fees:</u>	ርሱ 1	01 @10
	(A)		age therapist		0] <u>\$12</u>
(0)	(B) Deste		age therapy establishment		0] <u>\$36</u>
(8)			ee for failure to renew license shall be the pena	ity it	
(9)			tion to all delinquent fees[.] esolution fund:		
(9)	(A)		bliance resolution fund fee	521	5] <u>\$50</u>
	(B)		al compliance resolution fund fee	The second	5] <u>\$50</u>
	(C)		ial compliance resolution fund fee	550 mm	0] <u>\$100</u>
	(0)		9/30/83; am and comp 6/7/85; am and comp	100	
			nd comp 10/3/86; am and comp 5/1/87; comp		
			nd comp 11/25/88; am and comp 12/21/89;		152
			10/4/91; am and comp $6/10/94$; am and comp		
			nd comp 6/z13/00; comp 11/22/02; am a		
		1054048030	T	100000 (1000) 1000	T

7/21/08; comp 9/2/10; am and comp

] (Auth: HRS §§26-9, 436B-13.3, 452-17) (Imp: HRS §§26-9, 436B-13.3, 452-12, 452-13, 452-16, 452-17)

§16-53-24 Medical. The fees for the [board of medical examiners] Hawaii medica

		e as provided in this section:				
(1)		ation fees:				
	(A)	Physician for permanent license	\$	50		
	(B)	Physician for limited and temporary license	\$	25		
	(C)	Physician for educational teaching license	\$	50		
	(D)	Physician assistant	\$	20		
	(E)	Podiatrist	\$	50		
(2)	Exami	nation and reexamination fees:				
	(A)	Examination and other examination related	fees	for		
64 C		physicians as determined by agreement between	the bo	oard		
		and a professional testing service				
	(B)	Examination and other examination related	fees	for		
		podiatrists as determined by agreement between	the b	oard		
		and a professional testing service				
(3)	Examination administration fees for the Podiatrist examination shall					
	be \$60).				
(4)	Origin	al license fees:				
	(A)	Physician for permanent license with or				
		without examination	[\$7	5] <u>\$97</u>		
	(B)	Physician limited and temporary license:				
		(i) Absence or shortage		0] <u>\$65</u>		
	τ.	(ii) Government employed	[\$5	0] <u>\$65</u>		
	N 8	(iii) Sponsorship	[\$5	0] <u>\$65</u>		
		(iv) Resident in training	[\$2	5] <u>\$32</u>		
		(v) Public emergency	[\$2	5] <u>\$32</u>		
	(C)	Physician for educational teaching license	[\$7	5] <u>\$97</u>		
	(D)	Physician assistant	[\$2	5] <u>\$32</u>		
	(E)	Podiatrist	[\$5	0] <u>\$65</u>		
(5)	Licens	se fees for those falling under paragraph (4) (A), (D), and	l (E) ·		
~ ^	shall b					
	(A)	First year of the biennium (original license fee, plu	s one-	-half		
		of the biennial renewal fee)				
	12-27-2					

Second year of the biennium (original license fee) (B)

Renewal fees: (6)

	(A)	Biennial renewal fee for physicians					
	21	with permanent licenses [\$150] <u>\$19</u>					
	(B)	Annual renewal fee for physician with following lim temporary licenses:	ng limited and				
		(i) Government employed	[\$75] <u>\$97</u>				
		(ii) Resident in training	[\$75] <u>\$97</u> [\$35] <u>\$45</u>				
	(\mathbf{C})	· · ·					
	(C)	Biennial renewal physician assistant	[\$30] <u>\$40</u>				
	(D)	Biennial renewal podiatrist	[\$80] <u>\$104</u>				
(7)		ve fee for physician assistant	[\$10] <u>\$12</u>				
(8)		vation fee for physician assistant	[\$10] <u>\$12</u>				
(9)	100 - 2002	ration fees:	¢ 000				
	(A)	For physician with permanent license	\$ 200				
	(B)	For physician with following limited and temporary					
		(i) Government employed	\$ 100				
		(ii) Resident in training	\$ 35				
	(C)	Physician assistant	\$ 40				
5	(D)	Podiatrist	\$ 120				
(10)		liance resolution fund for physicians and podiatrists:					
	(A)	Compliance resolution fund fee	[\$45] <u>\$74</u>				
	(B)	Annual compliance resolution fund fee	[\$45] <u>\$74</u>				
	(C)	Biennial compliance resolution fund fee	[\$90] <u>\$148</u>				
<u>(11)</u>	Comp	liance resolution fund for physician assistants:					
	<u>(A)</u>	Compliance resolution fund fee	\$ <u>55</u>				
	<u>(B)</u>	Annual compliance resolution fund fee	\$ <u>55</u>				
	<u>(C)</u>	Biennial compliance resolution fund fee	\$ <u>110</u>				
		[Eff and comp 6/7/85; comp 12/7/85; am and comp	10/3/86;				
		am and comp 5/1/87; am and comp 12/7/87; comp	11/25/88;				
		am and comp 12/21/89; am and comp 10/4/91; am a	and comp				
		6/10/94; am and comp 7/18/94; am and comp 6/13/	00; comp				
		11/22/02; am and comp 7/21/08; comp 9/2/10;	am and				
		comp] (Auth: HRS	§§26-9,				
		436B-13.3, 436B-15) (Imp: HRS §§26-9, 436B-13.	.3, 453-6,				
		463E-5)					

§16-53-25 Repealed. [R 11/25/88]

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<u>§16-53-25.1</u> <u>Mental health counselors.</u> The fees for mental health counselors shall be as provided in this section:

<u>(1)</u>	Application fee	<u>\$</u>	<u>60</u>
(2)	Examination and other examination related fees as		
	determined by agreement between the department		
	and a professional testing service		
(3)	Original license fee	<u>\$</u>	<u>213</u>
(4)	License fees:		
	(A) First year of the triennium (original license		
	fee plus two-thirds of the triennial renewal fee)	<u>\$</u>	<u>299</u>
	(B) Second year of the triennium (original)		
	license fee, plus one-third of the triennial fee)	<u>\$</u>	<u>256</u>
	(C) Third year of the triennium (original license		
	<u>fee)</u>	<u>\$</u>	<u>213</u>
<u>(4)</u>	Triennial renewal fee	<u>\$</u> \$ \$	<u>153</u>
<u>(5)</u>	Inactive and reactivation fee	<u>\$</u>	<u>12</u>
<u>(6)</u>	Restoration for failure to renew license shall be the		
	delinquent fees plus the penalty fee of \$100, in addition		
	to the triennial renewal fee in paragraph (4)		
<u>(7)</u>	Compliance resolution fund:		212
	(A) Compliance resolution fund fee	<u>\$</u>	<u>43</u>
	(B) Annual compliance resolution fund fee	<u>\$</u> <u>\$</u> \$	<u>43</u>
	(C) Triennial compliance resolution fund fee		<u>129</u>
	[Eff and comp] (Auth: H		
	436B-13.3, 453D-4) (Imp: HRS §§26-9, 436B-1	.3.3, 4	.53D-
	3, 453D-10, 453D-11)		

§16-53-25.3 Repealed. [R 12/21/89]

<u>§16-53-25.4</u> Mixed martial arts. The fees for mixed martial arts shall be as provided in this section:

(1)	Application fees:							
	(A)	Promoter					<u>\$</u>	<u>25</u>
	<u>(B)</u>	Contestant					<u>\$</u>	<u>25</u>
	(C)	Physician			0		<u>\$</u>	<u>25</u>
	(D)	Referee		3			<u>\$</u>	<u>25</u>
	(E)	Judge					<u>\$</u>	<u>25</u>
	(F)	Second					<u>\$</u>	<u>25</u>
	$\overline{(G)}$	Manager					<u>\$</u>	<u>25</u>
	<u>(H)</u>	Event permit					\$	<u>100</u>

(2)	License	ense fees:					
2	<u>(A)</u>	Promoter	<u>\$</u>	<u>640</u>			
	<u>(B)</u>	Contestant	s) s) S)	<u>48</u>			
	<u>(C)</u>	Physician		<u>80</u>			
	<u>(D)</u>	Referee	<u>\$</u>	<u>160</u>			
	<u>(E)</u>	Judge	69 169 169 169	<u>80</u>			
	<u>(F)</u>	Second	<u>\$</u>	<u>48</u>			
	<u>(G)</u>	Manager	<u>\$</u>	<u>160</u>			
	<u>(H)</u>	Event permit	\$	<u>500</u>			
<u>(3)</u>	The big	ennial renewal fees shall be equivalent to the license					
	fees fo	r each respective license set forth in paragraph (2).					
<u>(4)</u>	Compl	iance resolution fund:					
	<u>(A)</u>	Compliance resolution fund fee	<u>\$</u>	<u>50</u>			
	<u>(B)</u>	Annual compliance resolution fund fee	<u>\$</u>	<u>50</u>			
	<u>(C)</u>	Biennial compliance resolution fund fee	<u>\$</u>	<u>100</u>			
		[Eff and comp] (Auth: HRS	§§2	26-9,			
		440E-9) (Imp: HRS §§26-9, 440E-9)					

[§16-53-25.5 <u>Mortgage brokers and solicitors.</u> The fees for mortgage brokers and solicitors shall be as provided in this section: (1) Application fees:

(1)	Application fees:					
	(A)	Mortgage broker	\$	50		
¥.	(B)	Designated principal mortgage solicitor	\$	25		
	(C)	Branch office	\$	25		
	(D)	Mortgage solicitor	\$	25		
(2)	License	e fees:				
	(A)	Mortgage broker	\$	100		
	(B)	Designated principal mortgage solicitor	\$	50		
	(C)	Branch office	\$	50 ·		
	(D)	Mortgage solicitor	\$	25		
(3)	Bienni	al renewal fees:				
	(A)	Mortgage broker	\$	200		
	(B)	Designated principal mortgage solicitor	\$	100		
	(C)	Branch office	\$	100		
	(D)	Mortgage solicitor	\$	50		
(4)	Restor	ation fees for forfeited licenses shall be the delinqu	ient	fees		
	plus th	e following penalty fees:				
	(A)	Mortgage broker	\$	100		

	(B)	Designated principal mortgage solicitor	\$	100
	(C)	Branch office	\$	100
	(D)	Mortgage solicitor	\$	25
(5)	Duplic	cate fee for mortgage solicitor	\$	10
(6)	Comp	liance resolution fund:		
. ,	(A)	Annual compliance resolution fund fee	\$	35
	(B)	Biennial compliance resolution fund fee	\$	70]
		[Eff and comp 11/25/88; am and comp 12/21/8	9; 0	comp
		10/4/91; am and comp 6/10/94; am and comp 7/1	8/94	l; am
		and comp 6/13/00; comp 11/22/02; comp 7/21/0	8; 0	comp
		9/2/10; R] (Auth: HRS §§20	5-9,	454-
		3) (Imp: HRS §§26-9, 454-3)		

§16-53-25.8 <u>Motor vehicle industry licensing</u>. The fees for the motor vehicle industry licensing board shall be as provided in this section:

(1)	Application fees:	

(A)	[Salesperson] Motor vehicle salesperson	\$	20
(B)	Motor vehicle consumer consultant	<u>\$</u>	<u>20</u>
[B] (C) All other applications	\$	50

(2) Original license and biennial renewal fees for [automobile] motor vehicle dealer, motor vehicle branch office location, motor vehicle salesperson, motor vehicle broker, [or broker's agent] motor vehicle consumer consultant, motor vehicle manufacturer, motor vehicle distributor, and motor vehicle auction shall be as follows:

uisuio	utor, an	u motor veniere auction snan e	c as follows.	
			Original	Biennial
		1 5	license	renewal
			fee	fee
(A)	In cou	nties with population of		
	200,00	00 or more:		
	<u>(i)</u>	New motor vehicle dealer	[\$375] <u>\$487</u>	[\$750] <u>\$974</u>
	<u>(ii)</u>	[Branch office]Motor vehicle	2	
		branch office location	[\$150] <u>\$195</u>	[\$300] <u>\$390</u>
	<u>(iii)</u>	Used motor vehicle dealer	[\$150] <u>\$195</u>	[\$300] <u>\$390</u>
	<u>(iv)</u>	[Used motor vehicle dealer		
		dealing primarily in the		
		business of wrecking and		
		dismantling motor vehicles,		
		motorcycles, or scooters	\$150	\$ 300

			Salesperson] Motor vehicle				
			salesperson and motor vehicle		112		
				[\$15] <u>\$2</u>			0] <u>\$40</u>
			[Broker] Motor vehicle broker				600
2				\$15		\$	30]
	(B)		ties with population of				
			n 200,000:			17/02/2010	
		(i)	New motor vehicle dealer	[\$187.5	0] <u>\$243</u>	[\$3	375] \$ <u>486</u>
		(ii)	[Branch office] Motor vehicle				
			branch office location	[\$75] <u>\$</u>		877	00] <u>\$130</u>
		(iii)	Used motor vehicle dealer	[\$75] <u>\$</u>	<u>97</u>	[\$1	50] <u>\$196</u>
		(iv)	[Used motor vehicle dealer				
			dealing primarily in the				
			business of wrecking and				
			dismantling motor vehicles,				
			motorcycles, or scooters	\$ 75		\$	150
			Salesperson] Motor vehicle				
			salesperson and motor vehicle				
			consumer consultant	[\$15] <u>\$</u>	<u>20</u>	[\$3	0] <u>\$40</u>
		<u>(v)</u>	Motor vehicle broker	<u>\$</u>	<u>0</u>	<u>\$</u>	600
	<u>(C)</u>		vehicle manufacturer	8		-	
			otor vehicle distributor	<u>\$</u> <u>\$</u>	<u>649</u>		1298
	<u>(D)</u>	() Construction of the	vehicle auction	<u>\$</u>	<u>390</u>	<u>\$</u>	<u>779</u>
(3)			ise fee for motor vehicle			21.3	
	-	erson tra				100	.0] <u>\$25</u>
(4)	-	100 C	ense for motor vehicle salesper	son		\$	20
(5)			se and biennial renewal fees				
			shall be:	\$ 300		\$	600
(6)]			or those falling under [paragra	phs] <u>par</u>	agraph	(2)	land
	(5)] sh			0	4		
	(A)		ear of the biennium (original lie	cense fe	e, plus		
			lf of the biennial renewal fee)		a >		
V/2 (4210	(B)		l year of the biennium (origina			~	
[(7)			e for failure to renew license	shall be	twenty	-tiv	e per
		-	l license fee.				
(8)			sultant registration and				
		al renew				\$	25
(9)] <u>(6)</u>			esolution fund[:] for motor veh	icle sale	sperson		'
	(A)	-	liance resolution fund fee			100 March 100	55] <u>\$67</u>
	(B)	Annua	l compliance resolution fund fo	ee		[\$:	55] <u>\$67</u>

.

	(C)	Biennial compliance resolution fund fee	[\$1	10] <u>\$134</u>
(7)	Compl	iance resolution fund for motor vehicle consumer		
	consult	tant, motor vehicle dealer, motor vehicle branch office		
	locatio	n, motor vehicle broker, and motor vehicle auction:		
	<u>(A)</u>	Compliance resolution fund fee	<u>\$</u>	<u>74</u> ·
	<u>(B)</u>	Annual compliance resolution fund fee	<u>\$ \$ </u> \$	<u>74</u>
	<u>(C)</u>	Biennial compliance resolution fund fee	<u>\$</u>	<u>148</u>
<u>(8)</u>	Compl	iance resolution fund for each dealer franchised		
	by the	motor vehicle manufacturers and motor vehicle		
	distrib	utors:		
	<u>(A)</u>	Compliance resolution fund fee	<u>\$</u>	308
	<u>(B)</u>	Annual compliance resolution fund fee		<u>308</u>
	<u>(C)</u>	Biennial compliance resolution fund fee	<u>\$</u>	<u>616</u>
		[Eff and comp 11/25/88; comp 12/21/89; comp 10/4	4/91	; am
		and comp 6/10/94; am and comp 7/18/94; am ar	ıd c	comp
		6/13/00; comp 11/22/02; comp 7/21/08; comp 9/2	!/10	; am
		and comp] (Auth: HRS	§§:	26-9,
		436B-15) (Imp: HRS §§26-9, 437-1.1, 437-2	, 4	37-7,
		437-23)		

§16-53-25.11 Motor vehicle repairs. The fees for the motor vehicle repair industry board shall be as provided in this section:

(1)	Appl	ication fees:	
	(A)	Mechanic	\$ 10
	(B)	Repair dealer	\$ 10
	(C)	Salvage repair dealer	\$ 30
(2)	Exan	nination and other examination related fees for me	chanic license
	as de	etermined by agreement between the board and [t	he University
	of Ha	awaii] a professional testing service	
(3)	Origi	inal license fees:	
	(A)	Mechanic	[\$40] <u>\$56</u>
	(B)	Repair dealer	[\$100] <u>\$140</u>
	(C)	Salvage repair dealer	[\$100] <u>\$140</u>
(4)	Licer	nse fees:	
.,	(A)	First year of the biennium (original license fee,	
		plus one-half of the biennial renewal fee)	
		(i) Mechanic	[\$60] <u>\$84</u>
		(ii) Repair dealer	[\$150] <u>\$210</u>
			[#1 CO] #010

(iii) Salvage <u>repair</u> dealer [\$150] <u>\$210</u>

	(B) S	Second year of the biennium (original license fee)	
	- 18 IS	(i) Mechanic	[\$40] <u>\$56</u>
		ii) Repair dealer	[\$100] <u>\$140</u>
		ii) Salvage <u>repair</u> dealer	$[\$100] \frac{\$140}{\$140}$
(5)		renewal fees:	[\$100] <u>\$140</u>
(3)		Mechanic	[\$40] \$56
		Repair dealer	[\$40] <u>\$50</u> [\$100] \$140
		Salvage <u>repair</u> dealer	[\$100] <u>\$140</u> [\$100] <u>\$140</u>
(6)		tion fee for failure to renew a license shall be the	2 200 2 2 1
(0)		fee, plus fifty per cent of biennial renewal fee.	Ulcillia
(7)		adding a classification for mechanic's license	¢ 10
$\frac{(7)}{(8)}$		relocation of a repair dealer	<u>\$ 10</u> <u>\$ 10</u>
$\frac{(8)}{(9)}$		salvage repair dealer that holds a repair dealer's	<u>\$ 10</u>
(9)	license	salvage repair dealer that holds a repair dealer s	<u>\$ 30</u>
[(7)] <u>(10)</u>		ance resolution fund[:] for mechanics:	<u> 70</u>
		Compliance resolution fund fee	[\$55] <u>\$67</u>
		Annual compliance resolution fund fee	[\$55] <u>\$67</u>
		Biennial compliance resolution fund fee	[\$33] <u>\$67</u> [\$110] <u>\$134</u>
(11)		ance resolution fund for repair dealer and salvage dea	(19) (1) (1) (1) (1) (1) (1) (1) (1) (1) (1
	14. 2011	Compliance resolution fund fee	
		Annual compliance resolution fund fee	<u>\$ 74</u>
		Biennial compliance resolution fund fee	<u>\$ 74</u> <u>\$ 74</u> \$ 148
		[Eff and comp $11/25/88$; comp $12/21/89$; am ar	and an and a second sec
		10/4/91; am and comp $6/10/94$; am and comp $7/12$	÷.
		and comp 6/13/00; comp 11/22/02; comp 7/21/0	
			h: HRS
		§§26-9, 437B-9, 437B-23) (Imp: HRS §§26-9,	
		437B-23)	
		A A A A A A A A A A A A A A A A A A A	

§16-53-26 <u>Naturopathy.</u> The fees for the board of [examiners in naturopathy] <u>naturopathic medicine</u> shall be as provided in this section:

(1)	Applie	cation [fee] fees:	[\$	25]
	<u>(A)</u>	Naturopath license	<u>\$</u>	<u>25</u>
	<u>(B)</u>	Special privilege to administer parenteral therapy	<u>\$</u>	<u>25</u>
	<u>(C)</u>	Course provider for qualifying education course		
		on parenteral therapy	<u>\$</u>	<u>25</u>
	<u>(D)</u>	Special privilege to perform minor office		
		procedures	<u>\$</u>	25
(2)	Origin	nal license fee	[\$5	0] <u>\$95</u>

(3)	Exami	nation and [reexamination fees:					
	(A)	Naturopathy Clinical and Homeopathy examinati	on	and]			
	18 H.	other examination related fees as determined by ag	gree	ment			
	[(B)	between the board and a professional testing service Examination administration fee	\$	125			
e	(C)	Examination administration fee per part		0			
		specified in (A) above	\$	15			
(5)] (4) Licens	e fees:					
	(A)	First year of the biennium (original license					
		fee, plus one-half of the biennial renewal fee)	[\$]	150] <u>\$285</u>			
	(B)	Second year of the biennium (original					
		license fee)	[\$50] <u>\$95</u>				
[(6)] ([\$200] <u>\$380</u>						
[(7)] ([\$10] <u>\$12</u>						
[(8)] (7) Resto	ration fee of naturopath license shall be the penalty fe	e of	\$75,			
	in addi	ition to all delinquent fees.					
[(9)] [<u>8)</u> Comj	pliance resolution fund:					
	(A)	Compliance resolution fund fee	[\$:	55] <u>\$74</u>			
	(B)	Annual compliance resolution fund	[\$55] <u>\$74</u>				
	(C)	Biennial compliance resolution fund fee	[\$	110] <u>\$148</u>			
		[Eff 9/30/83; am and comp 6/7/85; comp 12/7/8		675 G			
		10/3/86; am and comp 5/1/87; am and comp 12/7/8					
11/25/88; comp 12/21/89; comp 10/4/91; am and							
6/10/94; am and comp 7/18/94; am and comp 6/13/00; con							
		11/22/02; am and comp 7/21/08; comp 9/2/10;					
		comp] (Auth: HRS	00	26-9,			
		436B-13.3, 455-2) (Imp: HRS §§26-9, 436B-13.3	3, 4	55-2,			
19	455-8)						

§16-53-27 <u>Nurses</u>. The fees for the board of nursing shall be as provided in this section:

- (1) Application fees for registered nurse, licensed practical nurse,
 - and advanced practice registered nurse \$
- (2) Examination and other examination related fees for registered nurse and licensed practical nurse as determined by agreement between the board and a professional testing service

- (3) Original license fee for registered nurse, licensed practical nurse, and advanced practice registered nurse [\$20] <u>\$36</u>
- (4) License fees:

(A) First year of the biennium (original license

fee, plus one-half of the biennial renewal fee):

lee, plus one-half of the blennial renewal fee):						
	(i)	Registered nurse	[\$30] <u>\$54</u>			
	(ii)	Licensed practical nurse	[\$30] <u>\$54</u>			
	(iii)	Advanced practice registered nurse	[\$30] <u>\$54</u>			
(B)	Seco	nd year of the biennium (original				
	licen	se fee):				
â	(i)	Registered nurse	[\$20] <u>\$36</u>			
	(ii)	Licensed practical nurse	[\$20] <u>\$36</u>			
	(iii)	Advanced practice registered nurse	[\$20] <u>\$36</u>			
		icense fee	<u>\$ 50</u>			
(5)](6) Bien						
(A)		stered nurse	[\$20] <u>\$36</u>			
(B)		nsed practical nurse	[\$20] <u>\$36</u>			
(C)		anced practice registered nurse	[\$20] <u>\$36</u>			
		reactivation fee for registered nurse, licensed				
		se, and advanced practice registered nurse	\$[10] <u>12</u>			
		fee for failure to renew license shall be the pena	alty fee of			
800.00 - 200 .0 00		tion to the biennial renewal fee.				
,		resolution fund:	~			
(A)		pliance resolution fund fee for licensed practica				
		registered nurses	[\$35] <u>\$50</u>			
(B)		ual compliance resolution fund fee	[\$35] <u>\$50</u>			
(C)		nial compliance resolution fund fee	[\$70] <u>\$100</u>			
		9/30/83; am and comp 6/7/85; comp 12/7/	20 			
		/86; am and comp 5/1/87; comp 12/7/8				
11/25/88; comp 12/21/89; comp 10/4/91; am and comp						
6/10/94; am and comp 7/18/94; am and comp 6/13/00; comp						
	11/2		am and			
	com	• • • • • • • • • • • • • • • • • • • •	20			
		, 436B-15) (Imp: HRS §§26-9, 457-7, 457-8	, 457-8.5,			
	457-	.9)				
		- 4 5				

§16-53-27.1 <u>Advanced practice registered nurse with prescriptive authority.</u> The [fees] <u>fee</u> for advanced practice registered nurses with prescriptive authority shall be [as provided in this section:

- (1)Application fee\$ 50(2)Original granting of prescriptive authority fee\$ 20
 - (3) Original fees:

	(A)	First year of the biennium (original granting			
	15. 15.	fee, plus one-half of the biennial renewal fee	\$	40	3
	(B)	Second year of the biennium (original granting			
		fee	\$	20	
(4)	Bienni	al renewal fee	\$	40	
(5)	Restor	ation fee for failure to renew prescriptive authority	shall be	e the	
		y of \$30, in addition to the biennial renewal fee.			
(6)		ication, termination or reestablishment of	prescrij	otive	
	author	ity relationship processing fee	\$	50	
(7)	Compl	liance resolution fund:			
• •	(A)	Compliance resolution fund fee	\$	35	
	(B)	Annual compliance resolution fund fee	\$	35	
	(C)	Biennial compliance resolution fund fee	\$	70]	
		a \$30 restoration fee in addition to the biennial	renewa	l fee	
		for failure to renew prescriptive authority. [Eff			
	140	6/13/00; comp 11/22/02; comp 7/21/08; comp	9/2/10	; am	
		and comp] (Auth: HE			
	228	436B-15) (Imp: HRS §§26-9, 457-8.6, 457-9)			

§16-53-28 <u>Nursing home administrators</u>. The fees for nursing home administrators shall be as provided in this section:

(1) Application fee

\$ 100

•

(2) Examination and reexamination fees:

(A)	NAB examination and other examination related fees as
	determined by agreement between the department and a
	professional testing service

	(B) State jurisprudence examination	\$	30
(3)	Examination administration fee for the exam listed in		
	paragraph (2)(A)	\$	25
(4)	Examination handscore fee for the exam listed in		
	paragraph (2)(B)	\$	20
(5)	Examination review fee for the exam listed in		
	paragraph (2)(B)	\$	25
(6)	Original license fee	[\$10	00] <u>\$130</u>
(7)	License fees:	3 9	
	(A) First year of the biennium (original license	÷.	5 5 5 55
	fee, plus one-half of the biennial renewal fee)	[\$1	50] <u>\$195</u>

(B) Second year of the biennium (original license fee)
 [\$100] \$130

(8)	-	orary pormit	¢	\$ 100			
(9)	Bienn	ial renewal fee		[\$100] <u>\$130</u>			
(10)	Inactiv	ve and reactivation fee		[\$10] <u>\$12</u>			
(11)	Resto	ration fee for failure to renew license shall be the p	ena	lty fee of			
. ,	\$100,	in addition to delinquent fees.		-			
(12)	Comp	liance resolution fund:					
19 - 192 19	(A)	Compliance resolution fund fee		[\$35] <u>\$50</u>			
	(B)	Annual compliance resolution fund fee		[\$35] <u>\$50</u>			
	(C)	Biennial compliance resolution fund fee	[\$70] <u>\$100</u>				
		[Eff 9/30/83; am and comp 6/7/85; comp 12/7/85; comp					
		10/3/86; am and comp 5/1/87; comp 12/7/87; comp					
	11/25/88; comp 12/21/89; am and comp 10/4/91; am and						
	comp 6/10/94; am and comp 7/18/94; am and comp 6/1						
±.	comp 11/22/02; am and comp 7/21/08; comp 9/2/10; am and						
		comp] (Auth: HR	SS	§§26-9,			
		436B-13.3, 436B-15) (Imp: HRS §§26-9,	4	36B-13.3,			
		457B-9)					

§16-53-29 Repealed. [R 11/25/88]

§16-53-29.5 <u>Occupational therapy</u>. The fees for occupational therapists <u>and</u> <u>occupational therapy assistants</u> shall be as provided in this section[:], provided that the fees for occupational therapy assistants shall become effective January 1, 2017:

C.	5 101 00	upunon	di therupy assistanto shan beechie criective sandar	1 1, 20.	210
	(1)	[Applic	\$	50	
	<u>(2)</u>	Original license fee			86
	<u>(3)</u>	License	e fees:		
		<u>(A)</u>	First year of the biennium (original license		
			fee, plus one-half of the biennial renewal fee)	<u>\$</u>	<u>128</u>
		<u>(B)</u>	Second year of the biennium (original license		
			fee)	<u>\$</u>	<u>86</u>
	[(2)](4)Bienni	al renewal fee	[\$5	50] <u>\$86</u>
	[(3)] <u>(5</u>)Inactiv	e fee and reactivation fee	[\$]	0] <u>\$12</u>
3	<u>(6)</u>	Delinq	uent fee	<u>\$</u>	<u>50</u>
	(7)	Restor	ation fee for failure to renew license shall be the		
		payme	nt of the delinquent fee plus an amount equal to		
		fifty pe	er cent of the delinquent fee		

	<u>(8)</u> *	Compli	iance resolution fund reimbursement fee collected		
		until \$7	70,000 is transferred to the compliance resolution		
		period)		<u>\$</u>	<u>100</u>
	[(4)](9))Compl	iance resolution fund [fee]:		
		(A)	Compliance resolution fund fee	[\$3	5] <u>\$50</u>
		(B)	Annual compliance resolution fund fee	<u>\$</u>	<u>50</u>
		$\overline{(C)}$	Biennial compliance resolution fund fee	<u>\$</u>	100
			[Eff and comp 6/13/00; comp 11/22/02; am an	d c	omp
			7/21/08; comp 9/2/10; am and comp		-]
			(Auth: HRS §§26-9, 436B-13.3, 436B-15) (Imp	: J	HRS
			§§26-9, 436B-13.3, 457G-1.5)		
×.					
	§16-53	-30 Ot	otometry. The fees for the board of examiners in op	oton	netry
shall b			this section[.]:		
	(1)		ation fee	\$	15
	(2)		al license fee	[\$2	.5] <u>\$42</u>
	(3)	License			
	()	(A)	First year of the biennium (original license		
			fee, plus one-half of the biennial renewal fee)	[\$7	5] <u>\$127</u>
		(B)	Second year of the biennium (original license		
			fee)	[\$2	.5] <u>\$42</u>
8	(4)	NBEO	examination and other examination related	fees	as
	. /	determ	ined by agreement between the board and a pro-	fessi	ional
			service		
	(5)		al renewal fee [for optometry license]	[\$1	00] <u>\$170</u>
	(6)	Record	lkeeping fee	\$	20
	(7)	Restor	ation of forfeited optometric license shall be the	bier	nnial
	2.0	renewa	al fee, penalty fee of \$50, in addition to the recordkee	pin	g fee
		for eac	h biennium the license was forfeited[.]		
	(8)	Reinst	atement of suspended license shall be the penalty fee	e of	\$50,
	0.000	in addi	tion to all delinquent fees[.]		
	(9)	Contin	uing education sponsor application and renewal fee	<u>\$</u>	<u>25</u>
	[(9)] (<u>10)</u> Com	pliance resolution fund:		
		(A)	Compliance resolution fund fee	[\$3	5] <u>\$50</u>
		(B)	Annual compliance resolution fund fee	[\$3	5] <u>\$50</u>
		(C)	Biennial compliance resolution fund fee	[\$7	70] <u>\$100</u>
		a 2	[Eff 9/30/83; am and comp 6/7/85; comp 12/7/85;	am	and
			comp 10/3/86; am and comp 5/1/87; comp 12/7/87		
			comp 11/25/88; comp 12/21/89; comp 10/4/91;		
			1777		

comp 6/10/94; am and comp 7/18/94; am and comp 6/13/00; comp 11/22/02; comp 7/21/08; comp 9/2/10; am and comp] (Auth: HRS §§26-9, 459-7) (Imp: HRS §§26-9, 459-7)

§16-53-31 <u>Osteopathy</u>. The fees for the [board of medical examiners] <u>Hawaii medical board</u> shall be as provided in this section:

- (1) Application fees for osteopathic license with or without examination \$ 50
- (2) Examination and other examination related fees for osteopaths as determined by agreement between the board and a professional testing service
- (3) Original license fee with or without examination if:
 - (A) Licensed in any country, state, territory, or province;
 - (B) Have certificate from the national board of examiners for osteopathic physicians and surgeons examination; and
 - (C) Admitted into the medical corps of the United States
 Army, Navy, or Public Health Service [\$200] \$260

(4) License fees:

(5) (6)

(7)

(A) [Practice of osteopathy:

(i	i)] First year of the biennium (original						
	license fee, plus one-half of the						
	biennial renewal fee)	[\$240] <u>\$312</u>					
[(ii)](B)Second year of the biennium (original						
	license fee)	[\$200] <u>\$260</u>					
Biennial	renewal fee [for the practice of osteopathy]	[\$80] <u>\$104</u>					
Restoration fee for failure to renew osteopathic license shall be the							
penalty f	ee of \$80, in addition to all delinquent fees.						
Complia	nce resolution fund:						
(A) C	Compliance resolution fund fee	[\$55] <u>\$74</u>					
(B) A	Annual compliance resolution fund fee	[\$55] <u>\$74</u>					
(C) E	Biennial compliance resolution fund fee	[\$110] <u>\$148</u>					
[Eff 9/30/83; am and comp 6/7/85; comp 12/7/	85; comp					
1	.0/3/86; comp 5/1/87; comp 12/7/87; comp 11/25/	'88; comp					
1	2/21/89; am and comp 10/4/91; am and comp 6/2	10/94; am					
а	ind comp 7/18/94; am and comp 6/13/00; comp	11/22/02;					

and comp 7/18/94; am and comp 6/13/00; comp 7/21/08; comp 9/2/10;

comp] (Auth: HRS §§26-9, 436B-15) (Imp: HRS §§26-9, 453-6)

am

and

§16-53-32 Pest control operators. The fees for the pest control board shall be as provided in this section:

Application fee (1)

30

\$

- Examination and other examination related fees as determined by (2)agreement between the board and a professional testing service for:
 - Pest control operator (sole proprietor) (A)
 - Responsible managing employee (B)
 - Field representative (C)
- Original license fees: (3)
 - Pest control operator branch 1, branch 2, (A)

and branch 3 - includes corporation, partnership, joint venture, or proprietorship

- [\$40] \$52 [\$40] <u>\$52</u> (B) Responsible managing employee
- Pest control field representative [\$25] \$32 (\mathbb{C})

A license for a combination of two or more branches may be issued and the combination license shall be considered one license for the purpose of determining the fee.

License fees: (4)

(')					
	(A)	All ca	ategories in paragraph (3)(A) and (B):		
		(i)	First year of the biennium (original		
			license fee, plus one-half of the		
			biennial renewal fee)	[\$90	D] <u>\$117</u>
		(ii)	Second year of the biennium (original		
			license fee)	[\$40	D] <u>\$52</u>
	(B)	Pest	control field representative:		
	2.6	(i)	First year of the biennium (original		
			license fee, plus one-half of the		
			biennial renewal fee)	[\$50	D] <u>\$64</u>
		(ii)	Second year of the biennium (original		
		35	license fee)	[\$25	5] <u>\$32</u>
(5)	Bienr	ial rene	ewal fees:		
	(A)	All c	ategories in paragraph (3)(A) and (B)	[\$10	00] <u>\$130</u>
	(B)	Pest	control field representative	[\$50	0] <u>\$64</u>
	(C)	Inact	ive license	[\$10	0] <u>\$12</u>
(6)	Delin	quent f	ees:		
	(A)	All c	ategories in paragraphs (3)(A) and (B)	\$	50
	(B)		control field representative	\$	25
(7)	Resto	ration	fee for failure to renew license shall be the	delinqu	uent
			amount equal to ten per cent of the delinquent		2
(8)	0.000	ivation			0] <u>\$36</u>
• •					

(9)Compliance resolution fund:

Compliance resolution fund fee [\$55] \$74 (A) [\$55] <u>\$74</u>

Annual compliance resolution fund fee (B)

Biennial compliance resolution fund fee (C) [\$110] \$148 [Eff 9/30/83; am and comp 6/7/85; comp 12/7/85; am and comp 10/3/86; am and comp 5/1/87; comp 12/7/87; comp 11/25/88; am and comp 12/21/89; comp 10/4/91; am and comp 6/10/94; am and comp 7/18/94; am and comp 6/13/00; comp 11/22/02; am and comp 7/21/08; comp 9/2/10; am and (Auth: HRS §§26-9, 1 comp 436B-13.3, 436B-15) (Imp: HRS §§26-9, 436B-13.3, 460J-9, 460J-12, 460J-14)

§16-53-33 Pharmacists and pharmacy. The fees for the board of pharmacy shall be as provided in this section:

e as pre	JVIGCUI	m uns s	0011011.					
(1)	Appli	cation f	Tees:					
	(A)	Pharr	nacist	\$	50			
	(B)	Pharr	nacy	\$	100			
	(C)	Who	lesale prescription drug distributor	\$	100			
(2)	Origi	nal lice	nse fee	[\$]	[5] <u>\$20</u>			
(3)	Origi	ginal permit fee for pharmacy and miscellaneous [\$50] <u>\$65</u>						
(4)	Origi	Original license fee for wholesale prescription						
	drug	distribu	tor	[\$50] <u>\$65</u>				
(5)	Exam	Examination and other examination related fees as determined by						
	agree	agreement between the board and a professional testing service						
(6)	License fees:							
	(A) Pharmacist:							
		(i)	First year of the biennium (original					
			license fee, plus one-half of the					
			biennial renewal fee)	[\$:	50] <u>\$65</u>			
		(ii)	Second year of the biennium (original					
			license fee)	[\$]	15] <u>\$20</u>			
	(B)	Tem	porary license	[\$:	30] <u>\$50</u>			
	(C)	Who	lesale prescription drug distributor:					
		(i)	First year of the biennium (original					
			license fee, plus one-half of the					
			biennial renewal fee)	[\$	125] <u>\$162</u>			
		(ii)	Second year of the biennium (original					
			license fee)	[\$:	50] <u>\$65</u>			

(7)	(7) Pharmacy and miscellaneous permits:				
	(A)	First year of the biennium (original permit			
		fee, plus one-half of the biennial renewal fee)	[\$125] <u>\$162</u>		
	(B)	Second year of the biennium (original permit			
		fee)	[\$50] <u>\$65</u>		
(8)	Renew	val fees:			
	(A)	Biennial renewal fee for pharmacist	[\$70] <u>\$90</u>		
	(B)	Biennial renewal fee for pharmacy and			
		miscellaneous permits	[\$150] <u>\$194</u>		
	(C)	Biennial renewal fee for wholesale prescription			
	1 (A)	drug distributor	[\$150] <u>\$194</u>		
(9)	Inactiv	re fee	[\$10] <u>\$12</u>		
(10)	Reacti	vation fee:	25		
	(A)	Pharmacist	[\$30] <u>\$36</u>		
	(B)	Pharmacy	[\$50] <u>\$60</u>		
	(C)	Miscellaneous permit	[\$30] <u>\$36</u>		
	(D)	Wholesale distributor	[\$30] <u>\$36</u>		
(11)	Restor	ation fee for failure to renew license or permit sha	ll be the		
	penalt	y fee of \$50, in addition to delinquent fees.	54 1		
(12)	Pharm	acy intern permit	\$ 10		
(13)	Comp	liance resolution fund[+] for pharmacists:			
	(A)	Compliance resolution fund fee	[\$35] <u>\$50</u>		
	(B)	Annual compliance resolution fund fee	[\$35] <u>\$50</u>		
	(C)	Biennial compliance resolution fund fee	[\$70] <u>\$100</u>		
<u>(14)</u>	Comp	liance resolution fund for pharmacies, miscellaneous r	permits,		
	and w	holesale distributors:			
	<u>(A)</u>	Compliance resolution fund fee	\$ <u>74</u>		
	<u>(B)</u>	Annual compliance resolution fund fee	\$ <u>74</u>		
	(<u>C)</u>	Biennial compliance resolution fund fee	\$ <u>148</u>		
		[Eff 9/30/83; am and comp 6/7/85; am and comp			
		am and comp 10/3/86; am and comp 5/1/87; comp			
		am and comp 11/25/88; comp 12/21/89; comp 10/	4/91; am		
		and comp 6/10/94; am and comp 7/18/94; am a			
		6/13/00; comp 11/22/02; am and comp 7/21/0	55/1		
		9/2/10; am and comp] (Aut			
		§§26-9, 436B-13.3, 436B-15) (Imp: HRS §§26-	9, 436B-		
		13.3, 461-6, 461-7, 461-8, 461-16)			

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§16-53-33.5 <u>Physical therapy</u>. The fees for the board of physical therapy shall be as provided in this section:

be as pro	viucu m							
(1)	Applic	ation [fee] fees:	[\$	50]				
	<u>(A)</u>	Physical therapist	<u>\$</u> \$	<u>50</u>				
	<u>(B)</u>	Physical therapist assistant	<u>\$</u>	<u>50</u>				
(2)	Exami	nation and other examination related fees as determ	ninea	l by				
	agreen	agreement between the board and a professional testing service						
(3)	Origina	al license [fee] fees:	[\$	30]				
	<u>(A)</u>	Physical therapist	<u>\$</u> \$	<u>85</u>				
	<u>(B)</u>	Physical therapist assistant	<u>\$</u>	<u>85</u>				
(4)	Licens	e fees:						
	(A)	First year of the biennium (original license fee,						
		plus one-half of the biennial renewal fee)	[\$8	0] <u>\$150</u>				
	(B)	Second year of the biennium (original						
		license fee)	[\$3	0] <u>\$85</u>				
(5)	Tempo	prary license fee	[\$3	0] <u>\$50</u>				
(6)	Bienni	al renewal fee	[\$1	00] <u>\$130</u>				
(7)	Inactiv	ve and reactivation fee	[\$1	0] <u>\$12</u>				
(8)	Restor	Restoration for failure to renew license shall be the payment of the						
	delinq	uent fees plus an amount equal to fifty per cen	t of	the				
	delinq	uent fee.						
<u>(9)</u>	Compl	liance resolution fund reimbursement fee collected un	til					
	<u>\$40,00</u>	00 is transferred to the compliance resolution (assessed	l for					
	each n	ew license and at each renewal period)	<u>\$</u>	<u>100</u>				
[(9)] <u>(1</u>	<u>0)</u> Com	pliance resolution fund:						
	(A)	Compliance resolution fund fee	[\$3	85] <u>\$50</u>				
	(B)	Annual compliance resolution fund fee	[\$3	35] <u>\$50</u>				
	(C)	Biennial compliance resolution fund fee	[\$7	70] <u>\$100</u>				
		[Eff and comp 11/25/88; comp 12/21/89; comp 10/	4/91	; am				
		and comp 6/10/94; am and comp 7/18/94; am a		-				
		6/13/00; comp 11/22/02; am and comp 7/21/0	8; c	comp				
		9/2/10; am and comp] (Aut	h:	HRS				
	-	§§26-9, 436B-13.3, 436B-15) (Imp: HRS §§26-	9,4	36B-				
		13.3, 436B-15, 461J-10)						

§16-53-34 <u>Private [investigators] detectives and guards.</u> The fees for the board of private detectives and guards shall be as provided in this section:

(1) Application fees:

		(A)	Detective [or], guard, detective agency, or guard		
			agency	\$	50
		(B)	[Detective agency or guard agency] Guard		
			employee	[\$10	00] <u>\$10</u>
	(2)	Exami	ination and other examination related fees for dete	ctive	or
		guard	shall be the amount of \$50; provided that if the boar	rd en	ters
			an agreement with a professional testing serve		
		exami	nation and other examination related fees shall	be	as
			nined by agreement between the board and the prot	fessio	onal
		5	service		
	(3)		ination handscore fee	\$	20
	(4)	Exami	ination review fee	\$	25
	(5)	Origin	al license fees:		
		(A)	Detective or guard		5] <u>\$34</u>
12		(B)	Detective agency or guard agency	[\$5(0] <u>\$66</u>
	<u>(6)</u>		al registration fee for guard employee	<u>\$</u>	<u>54</u>
	[(6)] <u>(7</u>)Detect	tive or guard license fees:		
		(A)	First year of the biennium (original license		
			fee, plus one-half of the biennial renewal fee)	[\$1(00] <u>\$132</u>
		(B)	Second year of the biennium (original license		
			fee)	[\$2:	5] <u>\$34</u>
	<u>(8)</u>	2	employee registration fees:		
		<u>(A)</u>	First year of the biennium (original registration	. 1 2	
			fee, plus one-half of the biennial renewal fee)	<u>\$</u>	<u>72</u>
		<u>(B)</u>	Second year of the biennium (original registration	4	-
			fee)	<u>\$</u>	<u>54</u>
	[(7)] <u>(9</u>		tive agency or guard agency license fees:		
		(A)	First year of the biennium (original license	561	507 610 C
			fee, plus one-half of the biennial renewal fee)	[\$1:	50] <u>\$196</u>
		(B)	Second year of the biennium (original license	፲ ሲ ሮ /	ጋን ቀረረ
	F(0)]/1	0)	fee)	[\$2(0] <u>\$66</u>
	[(8)] <u>(1</u>		Biennial renewal fees:	F. 0.1	CO1 @10/
		(A)	Detective or guard		50] <u>\$196</u>
		(<u>B</u>)	<u>Guard employee</u>	<u>\$</u>	<u>36</u>
			<u>C)</u> Detective agency or guard agency		00] <u>\$260</u>
	F(0)](1		D) Inactive license	[21(0] <u>\$12</u>
	[(9)][]		lty fees:	¢	75
		(A)	Detective or guard	\$ \$	75 100
		(B)	Detective agency or guard agency	Դ <u>Տ</u>	
		<u>(C)</u>	Guard employee	Φ	<u>15</u>

	-		200	-
	Restor	ation fee for failure to renew license shall be the per	alty	fee,
	in addi	ition to delinquent fees[.]		
[(10)](12)Rea	ctivation [fee] fees:	[\$	50]
	<u>(A)</u>	Detective, guard, detective agency, or		
		guard agency	<u>\$</u>	<u>60</u>
	<u>(B)</u>	Guard employee	\$	12
[(11)]((<u>13)</u> Con	npliance resolution fund[:] for detective,		9
	Guard	, detective agency, and guard agency:		
17	(A)	Compliance resolution fund fee	[\$5	5] <u>\$74</u>
	(B)	Annual compliance resolution fund fee	[\$5	5] \$ <u>74</u>
	(C)	Biennial compliance resolution fund fee	[\$1	10] <u>\$148</u>
<u>(14)</u>	Comp	liance resolution fund for guard employee:		
	<u>(A)</u>	Compliance resolution fund fee	<u>\$</u>	<u>17</u>
	<u>(B)</u>	Annual compliance resolution fund fee	<u>\$</u> \$ \$	<u>17</u>
	<u>(C)</u>	Biennial compliance resolution fund fee	<u>\$</u>	<u>35</u>
		[Eff 9/30/83; am and comp 6/7/85; am and comp	12/7	7/85;
		am and comp 10/3/86; comp 5/1/87; comp 12/7/8	57; c	omp
		11/25/88; comp 12/21/89; comp 10/4/91; am ar	ıd c	omp
		6/10/94; am and comp 7/18/94; am and comp 6/13/0)0; c	omp
		11/22/02; am and comp 7/21/08; comp 9/2/10;	am	and
	23	comp] (Auth: HRS §§26-9		
		13.3, 463-10) (Imp: HRS §§26-9, 463-5, 463-7, 463	56	
		and a second second the second s		

§16-53-35 <u>Pilotage</u>. The fees for deputy port pilots and port pilots shall be as provided in this section:

TILLE IT	CLIED DOG	DUL OIL,						
(1)	Applic	cation fe	\$	25				
(2)	Exami	ination a	and other examination related fees as deterr	nined	l by			
	agreer	nent bety	ween the department and a professional testing	g serv	rice			
(3)	Origin	Original license fees:						
	(A)	Port pi	lot	[\$20	00] <u>\$380</u>			
	(B)	Deputy	/ port pilot	[\$50	D] <u>\$96</u>			
(4)	Licens	se fees:						
	(A)	First ye	ear of the biennium (original license fee,					
		plus or	ne-half of the biennial renewal fee):					
		(i)	Port pilots	[\$30	00] <u>\$570</u>			
		(ii)	Deputy port pilots	[\$7:	5] <u>\$144</u>			
	(B)	Second	l year of the biennium (original license fee):					
		(i)	Port pilots	[\$20	00] <u>\$380</u>			
		(ii)	Deputy port pilots	[\$50	0] <u>\$96</u>			

(5)	Bienn	ial renewal fees:
	(A)	Port pilot [\$200] <u>\$380</u>
	(B)	Deputy port pilot [\$50] <u>\$96</u>
(6)	Comp	pliance resolution fund:
	(A)	Compliance resolution fund fee [\$55] <u>\$74</u>
	(B)	Annual compliance resolution fund fee [\$55] <u>\$74</u>
	(C)	Biennial compliance resolution fund fee [\$110] <u>\$148</u>
	0.2.4 2.4	[Eff and comp 6/7/85; comp 12/7/85; am and comp 10/3/86;
		am and comp 5/1/87; am and comp 12/7/87; comp 11/25/88;
		am and comp 12/21/89; comp 10/4/91; am and comp
		6/10/94; am and comp 7/18/94; am and comp 6/13/00; comp
		11/22/02; comp 7/21/08; comp 9/2/10; am and
		comp] (Auth: HRS §§26-9, 436B-15)
		(Imp: HRS §§26-9, 462A-3462A-6)

§16-53-36 <u>Professional engineers, architects, surveyors, and landscape</u> <u>architects.</u> The fees for the board of professional engineers, architects, surveyors, and landscape architects shall be as provided in this section:

(1)	Appli	cation [fee] fees:	[\$	75]
	<u>(A)</u>	Via endorsement	<u>\$</u>	<u>150</u>
	<u>(B)</u>	Principles and practice of engineering examination	\$	100
	(C)	Fundamentals of engineering examination	<u>\$</u>	<u>50</u>
	(D)	Principles and practice of surveying examination	<u>\$</u>	100
	<u>(E)</u>	Fundamentals of surveying examination	<u>\$</u>	<u>50</u>
	<u>(F)</u>	Architect examination	<u>\$</u>	100
	<u>(G)</u>	Landscape architect examination	<u>\$</u>	100
(2)	Origin	nal license fee for engineers, architects,		
		urveyors, and landscape architects	[\$5	50] <u>\$64</u>
(0)	F	tertion of the second second second		

(3) Examination and reexamination fees:

- (A) [Engineer-in-training, professional engineer,] <u>Fundamentals</u> of engineering, principles and practice of engineering, landscape architect, [surveyor-in-training, professional surveyor,] <u>fundamentals of surveying, principles and practice</u> of <u>surveying</u>, and architect examination and other examination related fees as determined <u>appropriate</u> by [agreement between] the board and a professional testing service <u>or the national council(s)</u>
- (B) [Landscape architect (Hawaii plant materials)]

		Board-produced examination for landscape		
		architects	[\$3(0] <u>\$60</u>
	(C)	[Professional surveyor:		
		(i) Hawaiian land matters	\$	40
		(ii) Special problems	\$	40]
		Board-produced examination for land surveyors	\$ <u>\$</u> \$	<u>80</u>
	(D)	[State jurisprudence examination (all licenses)	± \$	30
	(E)]	Examination review fee as deemed appropriate by the	- 1	
	(-)]	and the national council(s)[.]		Jurd
(4)	Exami	nation administration [fees:		
	(A)	Engineer in training	\$	20
	(B)	Professional engineer	\$	20
	(C)	Professional engineer structural only	\$	55
	(D)	Landscape architect:	x.•	
		(i) Section 1	\$	40
		(ii) Section 2	\$	40
		(iii) Section 3	\$	40
		(iv) Section 4	\$	40
		(v) Section 5	\$	40
		(vi) Section 6	\$	40
		(vii) Section 7	\$	40
	(E)	Surveyor in training	\$	30
	(F)	Surveyor professional	\$	65]
	fee as	determined appropriate by the board and a pro	fessi	onal
	examin	nation administration service or the national council(s)).	
(5)	Licens	se fees for engineers, architects, land surveyors, and l	ands	cape
	archite	ects:		
	(A)	First year of the biennium (original		
		license fee, plus one-half of the		
		biennial renewal fee)	[\$9	0] <u>\$116</u>
	(B)	Second year of the biennium (original		
		license fee)	[\$5	0] <u>\$64</u>
(6)	Bienni	ial renewal fee [for engineers, architects,		
	land si	urveyors, and landscape architects]	[\$8	0] <u>\$104</u>
(7)	Restor	ration fee [for engineers, architects,		
	land su	urveyors, and landscape architects]	\$	120
[(8)	Duplic	cate certificate or license fee	\$	10
(9)] <u>(8</u>) Comp	liance resolution fund:		
	(A)	Compliance resolution fund fee	[\$3	5] <u>\$50</u>
	(B)	Annual compliance resolution fund fee	[\$3	5] <u>\$50</u>

(C) Biennial compliance resolution fund fee [\$70] <u>\$100</u> [(10)](9) Evaluation of foreign education fee as deemed appropriate by the board and the professional evaluation service[.] [Eff 9/30/83; am and comp 6/7/85; am and comp 12/7/85; am and

comp 10/3/86; am and comp 5/1/87; am and comp 12/7/87; am and comp 11/25/88; am and comp 12/21/89; am and comp 10/4/91; am and comp 6/10/94; am and comp 7/18/94; am and comp 6/13/00; comp 11/22/02; comp 7/21/08; comp 9/2/10; am and comp] (Auth: HRS §§26-9, 436B-15) (Imp: HRS §§26-9, 464-9)

§16-53-37 <u>Psychologists</u>. The fees for the board of psychology shall be as provided in this section:

(1)	Application fee	\$	50
(2)	[Examination and reexamination fees:		

	(A)	EPPP	examination]	Examination	and oth	ner e	xamina	tion
		related	fees as deterr	nined by agree	ement be	tweer	n the bo	oard
		and a p	professional tes	ting service	э.			
	[(B)	State j	urisprudence ex	xamination		7	\$	30
(3)	Exami	nation a	dministration f	fee for the exam	n listed i	n		
	paragra	aph (2)(A)				\$	10
(4)	Exami	nation h	andscore fee fo	or the exam list	ed in			
	paragra	aph (2)(B)				\$	20
(5)	Exami	nation r	eview fee for the	he exam listed	in	1	2	
		aph (2)(\$	25
(6)] (3)	Origin	al licens	se fee				[\$30	0] <u>\$38</u>

[(7)] (4) License fees:

[(7)] (4)	LICENSE IEES.	
(A)	First year of the biennium (original license	
2. 3. 2	fee, plus one-half of the biennial renewal fee)	[\$80] \$ <u>103</u>
(B)	Second year of the biennium (original license	
	fee)	[\$30] \$ <u>38</u>
[8)] <u>(5)</u> Tempo	orary permit fee	\$ 30
[(9)] (6)Bienn	[\$100] <u>\$130</u>	
[(10)] (7) Inactiv	ve fee and reactivation fee	[\$10] <u>\$12</u>
[(11)] (8) Restor	ration fee	\$ 100
[(12)] (<u>9)</u> Comp	liance resolution fund:	
(A)	Compliance resolution fund fee	[\$55] <u>\$74</u>
(B)	Annual compliance resolution fund fee	[\$55] <u>\$74</u>

(C) Biennial compliance resolution fund fee [\$110] <u>\$148</u>

[Eff 9/30/83; am and comp 6/7/85; am and comp 12/7/85; am and comp 10/3/86; am and comp 5/1/87; comp 12/7/87; comp 11/25/88; comp 12/21/89; comp 10/4/91; am and comp 6/10/94; am and comp 7/18/94; am and comp 6/13/00; comp 11/22/02; am and comp 7/21/08; comp 9/2/10; am and comp] (Auth: HRS §§26-9, 436B-13.3, 465-12) (Imp: HRS §§26-9, 436B-13.3, 465-7, 465-12)

§16-53-38 <u>Public accountancy</u>. The fees for the board of public accountancy shall be as provided in this section:

(1) Application fees:

(1)	1 thbu	cuton rees.		
	(A)	Individual certified public accountant		18
		license	\$	25
	(B)	Individual permit to practice for public		
		accountant or certified public accountant	\$	25
	(C)	Individual temporary permit to		
		practice for public accountant or certified public		
		accountant	\$	25
	(D)	Firm permit to practice:		
		(i) Sole proprietorship CPA firms	\$	25
		(ii) All other CPA firms	\$	50
(2)	Exam	ination and other examination related fees as deter	mine	l by
	agree	ment between the board and a professional testing ser	vice	
(3)	Origi	nal individual certified public		
	accou	intant license fee	[\$5	0] <u>\$64</u>
(4)		idual public accountant		
	or inc	lividual certified public accountant license fees:		
	(A)	First year of the biennium (original		
		license fee, plus one-half of the		
		biennial renewal fee)	[\$7	0] <u>\$90</u>
	(B)	Second year of the biennium (original		
		license fee)	[\$5	0] <u>\$64</u>
(5)	Indiv	idual public accountant or certified public		
	accoi	intant permit to practice fees:		
	(A)	Partner or shareholder	[\$1	00] <u>\$130</u>
	(B)	Others employed by public accountant or		
		certified public accountant	[\$3	0] <u>\$38</u>
	(C)	Temporary permit	[\$1	50] <u>\$194</u>

(6)	(A) Sol	rm permit to practice fees: le proprietorship CPA firms other CPA firms	[\$50] <u>\$64</u> [\$101] <u>\$130</u>
(7)	· · /	enewal fees:	[φτοτ] <u>φτου</u>
()		lividual public accountant or	
		tified public accountant license	[\$40] <u>\$52</u>
			[\$40] <u>\$52</u>
		m permit to practice:	[\$50] <u>\$64</u>
	(i)	Sole proprietorship	[\$30] <u>\$04</u> [\$101] <u>\$130</u>
(0)	(ii)	All other CPA firms	
(8)	Recordkee		
[(9)		on proctoring fee	\$ 100
		ion score verification fee	\$ 15 \$ 05
<u>(10)</u>		g professional education provider fee	<u>\$ 25</u>
(11)		ration fee for an individual public accountan	
		certified public accountant license, and firm	
		all be the applicable renewal fee, a penalty fee ec	
		the applicable biennial renewal fee, and the reco	rdkeeping
		h biennium the license or permit was forfeited[.]	
(12)	~	ce resolution fund:	3
		lividual public accountant or	
	cei	tified public accountant license	14 100 A 0000
	(i)	Compliance resolution fund fee	[\$35] <u>\$50</u>
	(ii)	Annual compliance resolution fund fee	[\$35] <u>\$50</u>
	(iii)	Biennial compliance resolution fund fee	[\$70] <u>\$100</u>
	(B) Fir	m permit to practice for non-sole	
	pro	oprietorship CPA firms	
	(i)	Compliance resolution fund fee	[\$35] <u>\$50</u>
	(ii)	Annual compliance resolution fund fee	[\$35] <u>\$50</u>
	(iii)	Biennial compliance resolution fund fee	[\$70] <u>\$100</u>
	[E:	ff 9/30/83; am and comp 6/7/85; comp 12/7/	85; comp
	10	/3/86; am and comp 5/1/87; comp 12/7/8	37; comp
	11.	/25/88; comp 12/21/89; am and comp 10/4/91	; am and
	CO	mp 6/10/94; am and comp 7/18/94; am and com	p 6/13/00;
	CO	mp 11/22/02; comp 7/21/08; am and comp 9/2/1	0; am and
		mp] (Auth: HRS §§26-9,	
	(In	np: HRS §§26-9, 466-5, 466-7, 466-8	
		n a n on man 154400044 a 60 (n.w) 36	

§16-53-39 <u>Real estate</u>. The fees for the real estate commission shall be as provided in this section:

(1)	Application fee:	
(1)	(A) Real estate broker corporation and partnership	\$ 50
	(B) Real estate broker sole proprietor	and the second second second second
		[\$40] <u>\$65</u>
	(C) Real estate salesperson, broker-salesperson,	ф <u>о</u> г
	principal broker, and broker-in-charge	\$ 25
	(D) Real estate branch office	\$ 25
(2)	Examination and other examination related fees as determ	
	agreement between the commission and a professional	testing
	service	
(3)	License fees (Active or Inactive):	
	(A) Real estate broker corporation and partnership	[\$50] <u>\$84</u>
	(B) Real estate broker sole proprietor	[\$40] <u>\$52</u>
	(C) Real estate salesperson, broker-salesperson,	
	principal broker, and broker-in-charge	[\$25] <u>\$42</u>
	(D) Real estate branch office	[\$25] <u>\$42</u>
	(E) Real estate education fund	[\$40] <u>\$68</u>
	(F) Real estate recovery fund	[\$50] \$84
(4)	Original license fees (Active or Inactive):	[400] 401
(.)	(A) First year of the biennium (license fees) plus one-ha	lf of the
	biennial renewal fee:	
	(i) Real estate broker corporation and	
	partnership	[\$100] <u>\$149</u>
	(ii) Real estate broker sole proprietor	[\$80] <u>\$104</u>
	(iii) Real estate salesperson, broker-salesperson,	[\$00] <u>\$101</u>
	principal broker, and broker-in-charge	[\$50] <u>\$74</u>
	(iv) Real estate branch office	[\$50] <u>\$74</u>
	(B) Second year of the biennium (license fees):	[φυσ] <u>φτ+</u>
	(i) Real estate broker corporation and	
	partnership	[\$50] \$84
	(ii) Real estate broker sole proprietor	[\$30] <u>\$84</u> [\$40] <u>\$52</u>
	(iii) Real estate blocker sole proprietor (iii) Real estate salesperson, broker-salesperson,	[\$40] <u>\$52</u>
		[005] 040
	principal broker, and broker-in-charge	[\$25] <u>\$42</u>
(E)	(iv) Real estate branch office	[\$25] <u>\$42</u>
(5)	Biennial renewal fees (Active or Inactive):	[@100] @140
	(A) Real estate broker corporation and partnership	[\$100] <u>\$149</u>
	(B) Real estate broker sole proprietor	[\$80] <u>\$104</u>
	(C) Real estate salesperson, broker-salesperson,	
	principal broker, and broker-in-charge	[\$50] <u>\$74</u>
	(D) Real estate education fund	[\$40] <u>\$68</u>
	(E) Real estate branch office	[\$50] <u>\$74</u>

. (6) (7)	Site office (original and extension fee) License changes and reissuance license fees: [(A) Duplicate wall certificate or	\$	25	
	pocket identification card	\$	10	
	(B)] (A) Change in name of real estate licensee	\$	10	
	[(C)] (B) Change in place of business or branch			
	office address	\$	10	
	[(D] (C) Change or add or delete a trade name	\$	10	
	[(E)](D) Change from inactive to active			
	(i) Real estate broker corporation or			
	partnership	\$	75 ·	
	(ii) Real estate broker sole proprietor	\$	50	
	(iii) Real estate salesperson and broker-salesperso	ón,		
	voluntary inactive to active only	\$	25	
	[(F)](E) Change in principal broker or broker-in-charge	\$	10	
(8)	Educational waiver application fee	[\$2	25] <u>\$50</u>	
(9)	Experience certificate application fee	[\$5	50] <u>\$75</u>	
(10)	Restoration of forfeited license fees:			
200 - 200 20	(A) Shall require the payment of all delinquent renewal	fees	plus	
	a penalty fee as follows:			
	(i) Real estate broker corporation			
	and partnership	\$	100	
	(ii) Real estate broker sole proprietor	\$	80	
	(iii) Real estate salesperson, broker-salesperson,			
	principal broker, broker-in-charge, and			
	branch office	\$	50	
	(B) Application fees:			
	(i) Real estate broker corporation or			
	partnership, or principal broker of a real		1	4
	estate broker corporation or partnership	\$	100	
	(ii) Broker-in-charge of a real estate broker			
	corporation or partnership or real estate			
	broker sole proprietor	\$	80	
(17)	(iii) Real estate salesperson or	r.d.		
	broker-salesperson		25] <u>\$50</u>	
(11)	Additional payment to recovery fund	\$	25	~
(12)	Real estate schools:			
	(A) Original certificate of registration for both	Γሱ/	7501 @10	060
	a broker and salesperson school	Į¢.	750] <u>\$12</u>	200

	(B)	Original certificate of registration for either	
			\$500] <u>\$850</u>
	(C)	Each additional real estate broker or salesperson	
	a 12	-	\$250] <u>\$420</u>
	(D)	Biennial renewal of certificate of school	
		registration	\$300] \$510
	(E)	Each additional course offering \$100 plus \$1 fo	r each
		certificate of completion to each student	
	(F)	Application fee for original certificate, additional	
			\$ 50
	(G)	Real estate education fund shall receive all fees for o	original
	. ,	registration, biennial reregistration, each additional	
		offering, each certificate of completion, and applicat	
		for original certificate or biennial recertification	
(13)	Real e	state instructors:	
	(A)	Original certificate of registration of a pre	elicense
		instructor, specialized instructor, or	
		substitute teacher	[\$25] <u>\$42</u>
	(B)	Examination and other examination related for	ees as
	•	determined by agreement between the commission	and a
		professional testing service	
	(C)	Biennial reregistration of a prelicense instructor	[\$50] <u>\$86</u>
	(D)	Application fee for original certificate and	*2
		recertification of prelicense instructors, guest	
		lecturers or substitute teachers	\$ 50
	(E)	Real estate education fund shall receive all fees for	original
3		registration, biennial reregistration, and application	fee for
		original certificate or biennial recertification	
(14)	Restor	ration fee for forfeited school and instructor registration	on shall
		e delinquent renewal fees plus a penalty fee of \$10 f	
	deling	quent renewal period, and shall be deposited in the rea	al estate
	educa	tion fund.	
(15)	Conti	nuing education provider:	
	(A)	The initial application for registration of a	
		continuing education provider	[\$150] <u>\$256</u>
	(B)	Each continúing education provider's	
		application for biennial reregistration	[\$100] <u>\$170</u>
	(C)	Application for one-time offering for certification,	
		includes certification of up to three instructors	[\$250] \$420

	(D)	Real estate education fund shall receive all fees for	or ini	tial
		registration, biennial reregistration, and applicat	ion	for
		one-time offering		
(16)	Contin	uing education instructor:		
	(A)	Initial application for certification of a		
	32	continuing education instructor		0] <u>\$170</u>
	(B)	Subsequent application for course certification	\$	50
	(C)	Each continuing education instructor's		
		course certificate	\$	20
	(D)	Each continuing education instructor's application		
		for biennial recertification	[\$30)] <u>\$50</u>
	(E)	Each continuing education instructor's course		
		biennial recertification	\$	20
	(F)	Real estate education fund shall receive all fees fe		
		application for certification, subsequent applica	tion	for
		course certification, each course certificate, each ap		
		for biennial recertification, and each course	bien	nial
		recertification		
(17)		uing education course:	2040	10 1 (Jaanan)
	(A)	Application for certification of a course	2010 C	150
	(B)	Application for course recertification	\$	75
	(C)	Application for certification of a nationally		
		certified course	\$	25
	(D)	Application for course biennial recertification		-
		of a nationally certified course	\$	25
	(E)	Real estate education fund shall receive all		
		application for course certification and application for	or cou	ırse
		biennial recertification		
(18)		course completion certificate fee shall be deposited	ሱ	4
(10)		real estate education fund	\$	1
(19)		ation fee for forfeited provider registration,		
*		cation, and instructor certification shall be the de		
		al fees plus a penalty fee of \$10 for each delinquent		wai
(20)		, and shall be deposited in the real estate education fur	10.	
(20)		minium hotel operator:	¢	50
	(A)	Application fee	\$	50
	(B)	Original registration [fee] <u>fees:</u>	۲¢1(001 \$120
		(i) First year of the biennium	- 10 C)0] <u>\$130</u>
		(ii) Second year of the biennium	2773 A.S)] <u>\$65</u>)0] \$130
	(C)	Biennial reregistration fee	[φι(00] <u>\$130</u>

	(D)	Application for real estate broker exemption [fee:] fee	es:	
		(i) Original application	\$	25
		(ii) Biennial application	\$	25
	(E)	Application for bond alternative or bond exemption	[fee]	
		fees:		
		(i) Original application	\$	50
		(ii) Biennial application	\$	50
	(F)	Real estate education fund fee	[\$40	0] <u>\$68</u>
(21)	Comp	liance resolution fund:		
	(A)	Compliance resolution fund fee	[\$4;	5] <u>\$63</u>
1.2.1	(B)	Annual compliance resolution fund fee	[\$4	5] <u>\$63</u>
	(C)	Biennial compliance resolution fund fee	[\$9	0] <u>\$126</u>
(22)	Real e	estate education fund	10000	0] <u>\$68</u>
(23)		estate recovery fund	1.000	0] <u>\$84</u>
		and comp 6/7/85; comp 12/7/85; comp 10/3/86; com		
		nd comp 12/7/87; am and comp 11/25/88; am a		
		/89; am and comp 10/4/91; am and comp 6/10/94		
		7/18/94; am and comp 6/13/00; comp 11/22/0		
		08; comp 9/2/10; am and comp	-	with:
		§§26-9, 467-8, 467-9.6, 467-11, 467-17, 467-25.5		0.2.3
	(Imp:	And a second	, 467	7-17,
	467-2	25.5, 467-30)		
91 <i>C</i> 5	2 20 1	Deal actate amproisants. The face for real estate ampro		ah all
		<u>Real estate appraisers.</u> The fees for real estate apprai	Isers	snan
be as provide		ication fee	¢	25
(1) (2)	A. A.	nination and other examination related fees as deter	ф mina	
(2)		ment between the department and a professional testin		
(2)		anell Deiveen the department and a professional testin		

- [License] Original license or certificate fee (3) [\$100] <u>\$190</u>
- <u>(4)</u> License or certificate fees:

<u>(A)</u>	First year of the biennium (original license					
	fee, plus one-half of the biennial renewal fee)	<u>\$</u>	<u>238</u>			
<u>(B)</u>	Second year of the biennium (original license					
	fee)	<u>\$</u>	<u>190</u>			
(5) Tempo	rary recognition license fee	<u>\$</u>	<u>40</u>			
[(4)] (6) Appli	cation fee for recognition of license or certificate	\$	25			
[(5)] (7) Annu	[(5)] (7) Annual registry fee, as established by the Appraisal Subcommittee					
or the Federal Financial Institutions Examination Council.						

[(6)] (8) Biennial renewal fee

[\$50] <u>\$96</u>

[(7)] (9) Inacti	ve fee	[\$10] <u>\$12</u>
[(8)](10) React	tivation fee	[\$30] <u>\$36</u>
[(9)] (11) Rest	oration fee for failure to renew shall be the penalty fee		
of \$20,	, in addition to all delinquent fees.		
[(10)] (12) Edi	ucation provider application fee	\$	25
[(11)] <u>(13)</u>	Compliance resolution fund:		
(A)	Compliance resolution fund fee	[\$35] <u>\$63</u>
(B)	Annual compliance resolution fund fee	[\$35	5] <u>\$63</u>
(C)	Biennial compliance resolution fund fee	[\$70] <u>\$126</u>
	[Eff and comp 7/18/94; am and comp 6/13/00); co	mp
	11/22/02; am and comp 7/21/08; comp 9/2/10;	am	and
	comp] (Auth: HRS §§26-9	9, 43	6B-
	13.3, 436B-15) (Imp: HRS §26-9, 436B-13.3,	466¥	ζ-3,
	466K-4)		

§16-53-39.3 Repealed. [R 6/13/00]

§16-53-39.4 Respiratory therapists. The fees for respiratory therapists shall be as provided in this section: Application fee \$ 60 (1)Examination and other examination related fees as (2)determined by agreement between the department and a professional testing service \$ (3)Original license fee 377 (4) License fees: First year of the triennium (original license (A) fee plus two-thirds of the triennial renewal fee) \$ <u>531</u> Second year of the triennium (original) (B) license fee, plus one-third of the triennial renewal fee \$ 454 Third year of the triennium (original license (C) fee) <u>\$</u> <u>377</u> <u>\$</u> Triennial renewal fee (5) 231 Inactive and reactivation fee \$ (6)12 Restoration for failure to renew license shall be the (7)delinquent fees plus the penalty fee of \$100, in addition to the triennial renewal fee in paragraph (4)

(8) <u>Compliance resolution fund:</u>

<u>(A)</u>	8 0	Compliance resolution fund	fee	<u>\$</u>	<u>50</u>
<u>(B)</u>		Annual compliance resolution	<u>on fund fee</u>	<u>\$</u>	<u>50</u>
<u>(C)</u>		Triennial compliance resolu	tion fund fee	<u>\$</u>	<u>150</u>
		[Eff and comp] (Auth:	HRS §§	26-9,
		436B-13.3, 466D-6) (Imp:	HRS §§26-9, 4361	B-13.3, 4	66D-
		6, 466D-9)			

§16-53-39.5 Repealed. [R 7/18/94]

§16-53-39.6 <u>Social workers</u>. The fees for social workers shall be as provided in this section:

(1)	Application fee	\$	60			
(2)	Examination and other examination related fees as determined by					
	agreement between the department and a professional testin	ig ser	vice			
(3)	Original license [fee] fees:	[\$	100]			
	(A) Licensed bachelor social worker	<u>\$</u>	<u>60</u>			
	(B) Licensed social worker	<u>\$</u>	123			
	(C) Licensed clinical social worker	<u>\$</u> \$	195			
(4)	Triennial renewal [fee] fees:	[\$	78]			
	(A) Licensed bachelor social worker	<u>\$</u>	<u>48</u>			
	(B) Licensed social worker	<u>\$</u> \$ \$	<u>93</u>			
	(C) Licensed clinical social worker	<u>\$</u>	<u>141</u>			
(5)	Inactive and reactivation fee for licensed bachelor					
	social worker [and], licensed social worker, and licensed clinical					
	social worker	-	0] <u>\$12</u>			
(6)	Restoration fee for failure to renew license shall be the penalty fee of					
	one-half of the triennial renewal fee for the specific type of license					
	being restored, in addition to the triennial renewal fee in paragraph					
	(4)[.]					
[(7)		\$	10			
(8)	Duplicate ID card fee	\$	10			
(9)]	(7) Compliance resolution fund:					
	(A) Compliance resolution fund fee	[\$3	5] <u>\$43</u>			
	(B) Annual compliance resolution fund fee	[\$3	5] <u>\$43</u>			
	(C) Triennial compliance resolution fund fee		05] <u>\$129</u>			
	[Eff and comp 6/13/00; comp 11/22/02; am and comp					
	7/21/08; comp 9/2/10; am and comp]			

(Auth: HRS §§26-9, 436B-13.3, 467E-4) (Imp: HRS §§26-9, 436B-13.3, 467E-4, 467E-8, 467E-10, 467E-11)

§16-53-40 <u>Speech pathologists and audiologists</u>. The fees for the board of speech pathologists and audiologists shall be as provided in this section:

pulliolo	Proco an	a addresse Bistin of an Provider and and and				
(1)	Applica	ation fee	\$	50		
(2)	Origina	[\$50] <u>\$76</u>			
(3)	License					
	(A)	First year of the biennium (original license				
		fee, plus one-half of the biennial renewal fee)	[\$75] <u>\$114</u>		
	(B)	Second year of the biennium (original license				
		fee)	[\$50] <u>\$76</u>		
(4)	Biennia	al renewal fee	[\$50)] <u>\$76</u>		
(5)	The penalty fee for failure to renew license shall be the renewal fee,					
plus \$5 multiplied by the number of months elapsed since expirati						
	of licer	nse.				
(6) Examination fee and other examination related fees as determine						
		ent between the board and a professional testing servi				
(7)	Admin	istration fee for the maintenance of records for	pers	ons		
		d to be in compliance with the licensure requirer				
	chapter 468E, HRS:					
	(A)	Initial administration fee	\$	50		
(1	(B)	Biennial administration fee	\$	50		
(8)	[Duplie	cate certificate or license fee	\$	10		
(9)]	Temporary registration fee			[\$25] <u>\$30</u>		
	Compl	iance resolution fund:				
	(A)	Compliance resolution fund fee	[\$35	5] <u>\$50</u>		
	(B)	Annual compliance resolution fund fee	[\$35	5] <u>\$50</u>		
	(C)	Biennial compliance resolution fund fee	[\$70	0] <u>\$100</u>		
		[Eff 9/30/83; am and comp 6/7/85; comp 12/7/8	5; cc	mp		
		10/3/86; am and comp 5/1/87; comp 12/7/87	'; cc	mp		
		11/25/88; am and comp 12/21/89; comp 10/4/91;	am	and		
		comp 6/10/94; am and comp 7/18/94; am and comp				
		comp 11/22/02; comp 7/21/08; comp 9/2/10;				
		comp] (Auth: HRS §§26-9, 4				
		(Imp: HRS §§26-9, 468E-9, 468E-12, 468E-14)		~~ <i>M</i>		
		· · · · · · · · · · · · · · · · · · ·				

§16-53-40.3 <u>Time share</u>. The fees for time sharing shall be as provided in this section:
(1) Application fees:

(1)	Applic	ation fe	es:		
2.5	(Å)	Develo		\$	750
	(B)		ition agent	\$	50
	(C)	[Sales		\$	100
	(D)	Outside	e public contact (OPC)	\$	50
	(E)]	Plan m	1974 D.	\$	100
	[(F)](D) Exchange agent			\$	125
	[(G)				
	independent contractors (EIC) (H) Resale agent			\$	50
		(i)	Original application	\$	50
		(ii)	Each application for additional		
			resale authority	\$	25
	(I)] <u>(E</u>)) Booth		\$	50
	[(J)] <u>(I</u>	T) Devel	oper subsequent filing for		
		time sh	nare unit annexation	\$	150
(2)	Registration fees [(active or inactive)]:				
	(A)	Develo	oper	[\$	750]
		<u>(i)</u>	Time share plan containing time share units	or	
			time share interests in one time		
			share project	<u>\$1</u>	<u>400</u>
		<u>(ii)</u>	Each additional time share project		
			in which the time share units or		
			time share interests are being registered,		
			up through forty time share		
			projects	<u>\$1</u>	00 per project
	(B)		sition agent		50] <u>\$96</u>
	[(C)		agent	\$	100
	(D)	OPC	20	\$	50
	(E)] (C)Plan manager			[\$100] <u>\$190</u>	
	[(F)] (D) Exchange agent			[\$125] <u>\$236</u>	
		EIC		\$	50
	(H)	Resale			
		(i)	Original registration	\$	50
		(ii)	Each registration for additional		
	~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~		resale authority	\$	25
	(1) <u>](E)</u>	Booth		[\$:	50] <u>\$96</u>

:		- les a subse ment filing for time shore				
	[(J)](F) Developer subsequent filing for time share					
	2011040.4	nit annexation [\$ 150]				
	<u>(i)</u>					
		units or time share interests in one time share		205		
		project	<u>\$</u>	<u>285</u>		
	<u>(ii)</u>					
		which the time share units or time share				
		interests are being annexed, up		ř.		
		through forty time share projects \$100 p				
(3)		e consultant fees for the review of filings required				
	share deve	elopers shall be as determined by agreement bet	ween	the		
	State and t	he time share consultant[.]				
(4)		ce resolution fund fee paid with registration:				
		weloper shall pay [\$150] <u>\$184</u> plus [\$200] <u>\$246</u>		ach		
	un	it in the time share plan up through twenty-five un	its			
	(B) Ac	quisition agent	[\$35	5] <u>\$50</u>		
	[(C) Sa	les agent	\$	55		
	(D) OF	°C	\$	35		
	(E)] ( <u>C)</u> Pla	an manager	[\$55	5] <u>\$80</u>		
	[(F)](D)E>	change agent	[\$35	5] <u>\$50</u>		
	[(G) EI	C · ·	\$	35		
	(H) Re	sale agent	\$	35		
		r subsequent filing for time share unit an				
	de	veloper shall pay [\$50] <u>\$62</u> plus [\$200] <u>\$246</u> for	each	unit		
		nich shall be annexed to the time share plan up th		ı an		
		gregate of twenty-five units for the time share plar	n[.]			
[(5)	Duplicatio	on of pocket identification card:				
	(A) OI	°C	\$	10		
	(B) EI		\$	10		
(6)] <u>(5</u>	) Biennial re	egistration renewal [fee] fees [(active or inactive):				
	(A) De	eveloper	[\$2:	50] <u>\$476</u>		
	(B) Ac	equisition agent	[\$50	0] <u>\$96</u>		
	[(C) Sa	les agent	\$	100		
	(D) EI	C	\$	50		
	(E) OF	2C	\$	50		
	(F)] <u>(C)</u> Pla	an manager	[\$10	00] <u>\$190</u>		
	[(G)] <u>(D)</u> E	Exchange agent	[\$10	00] <u>\$190</u>		
		sale authority[.]				
	(I)] <u>(E)</u> Bo	ooth	[\$50	0] <u>\$96</u>		
	<ul> <li>A STATE STREET, STREET,</li> </ul>					

[(7)](6)Compliance resolution fund fee paid with biennial renewal (active or inactive):

(A)	Developer	[\$55	5] <u>\$80</u>
(B)	Acquisition agent	[\$3:	5] <u>\$50</u>
[(C)	Sales agent	\$	55
(D)	EIC .	\$	35
(E)	OPC	\$	35
(F)] <u>((</u>	<u>C)</u> Plan manager	[\$5:	5] <u>\$80</u>
[(G)](	D)Exchange agent	[\$3:	5] <u>\$50</u>
[(H)	Resale agent	\$	35]
Bienn	ial registration renewal fee (inactive)	<u>\$</u>	<u>12</u>

(8) Reactivation fee shall be \$50 plus the biennial renewal fees

(7)

[(8)] (9)Restoration fee for developers, [sales agents,] acquisition agents, plan managers, [resale agents,] and exchange agents for failure to renew registration shall be the penalty fee of \$400, in addition to delinquent biennial renewal fees. [Restoration fee for OPC's and EIC's for failure to renew registration shall be the penalty of \$150, in addition to delinquent biennial renewal fees.] Restoration is subject to requirements contained in chapter 16-106, Hawaii Administrative Rules[.]

	Aumi	mstrative Rules[.]
(10)	Amen	dments:
	<u>(A)</u>	Developer disclosure statement <u>\$</u> 50
	<u>(B)</u>	Developer disclosure statement\$ 50Other registration documents\$ 50gn time share plan exemption fee\$ 100
<u>(11)</u>	Foreig	gn time share plan exemption fee <u>\$ 100</u>
(12)	Limite	ed permit:
	<u>(A)</u>	Application fee <u>\$ 1000</u>
	<u>(B)</u>	Annual renewal <u>\$</u> 50
		[Eff and comp 11/25/88; comp 12/21/89; am and comp
		10/4/91; am and comp 6/10/94; am and comp 7/18/94; am
		and comp 6/13/00; comp 11/22/02; comp 7/21/08; comp
2. <b>*</b> 1.* 1.*		9/2/10; am and comp ] (Auth: HRS
		§§26-9, 436B-13.3, 514E-13) (Imp: HRS §§26-9,
'		514E-10)

§16-53-40.5 <u>Travel agencies</u>. The fees for the travel agency program shall be as provided in this section:

(1)	Application fee	\$	20
(2)	Original registration fee	[\$4	0] <u>\$76</u>
(0)			

(3) Travel agency or branch office registration fees:

	(A)	First year of the biennium (original registration			
		fee plus one-half of the biennial renewal fee)	[\$50] <u>\$95</u>		
	(B)	Second year of the biennium (original			
		registration fee)	[\$40] <u>\$76</u>		
(4)	Bienn	ial renewal fees:			
	. (A)	Travel agency	[\$20] <u>\$38</u>		
	(B)	Branch office	[\$20] <u>\$38</u>		
(5)	Inacti	ve fee	[\$10] <u>\$12</u>		
(6)	React	ivation fee	[\$30] <u>\$36</u>		
(7)	Restoration fee for failure to renew shall be the biennial renewal fee,				
	plus \$	620.			
(8)	Com	pliance resolution fund:			
	(A)	Compliance resolution fund fee	[\$35] <u>\$50</u>		
	(B)	Annual compliance resolution fund fee	[\$35] \$ <u>50</u>		
	(C)	Biennial compliance resolution fund fee	[\$70] <u>\$100</u>		
		[Eff and comp 11/25/88; am and comp 12/21/89;	am and		
		comp 10/4/91; am and comp 6/10/94; am and comp	7/18/94;		
		am and comp 6/13/00; comp 11/22/02; am an	nd comp		
		7/21/08; comp 9/2/10; am and comp	]		
		(Auth: HRS §§26-9, 436B-13.3, 468L-3) (Imp	: HRS		
		§§26-9, 436B-13.3, 468L-2, 468L-3)			

,

<u>§16-53-40.7</u> <u>Uniform athlete agents.</u> The fees for uniform athlete agents shall be as provided in this section:

<u>(1)</u>	Application fee	<u>\$</u>	<u>60</u>
<u>(2)</u>	Original registration fee	<u>\$</u>	247
<u>(3)</u>	Registration fees:		
	(A) First year of the biennium (original registration		
	fee plus one-half of the biennial renewal fee)	<u>\$</u>	<u>337</u>
	(B) Second year of the biennium (original		
	registration fee)	<u>\$</u>	<u>247</u>
<u>(4)</u>	Biennial renewal fee	<u>\$</u> \$} \$} \$	180
(5)	Inactive and reactivation fee	<u>\$</u>	<u>12</u>
(6)	Restoration for failure to renew registration shall		
	be the delinquent fees plus the penalty fee of	<u>\$</u>	<u>75</u>
(7)	Compliance resolution fund:		
	(A) Compliance resolution fund fee	<u>\$</u>	<u>50</u>
	(B) Annual compliance resolution fund fee	<u>\$</u>	<u>50</u>
	(C) Biennial compliance resolution fund fee	<u>\$</u>	100

[Eff and con		] (	(Auth: H	IRS §§26-9,		
436B-13.3,	481E-8)	(Imp:	HRS	§§26-9,	436B-13.3,	
481E-8)						

<u>§16-53-40.8</u> <u>Uniform land sales.</u> The fees for subdivided lands shall be as provided in this section:

(1)	Applic	eation fees:		
	<u>(A)</u>	Preliminary order of registration	<u>\$</u>	100
	<u>(B)</u>	Final order of registration	<u>\$</u> \$	<u>100</u>
	<u>(C)</u>	Final order of registration (after preliminary order		
		of registration has been issued)	\$	100
<u>(2)</u>	Regist	ration fees:		
	<u>(A)</u>	<u>Up to 100 lots</u>	<u>\$</u>	100
	<u>(B)</u>	<u>101 to 500 lots</u>	<u>\$</u> \$ \$	200
	<u>(C)</u>	Over 500 lots	<u>\$</u>	300
<u>(3)</u>	Amena	dments:		
	<u>(A)</u>	Public offering statement	<u>\$</u> \$	<u>60</u>
	<u>(B)</u>	Other subdivision registration documents	<u>\$</u>	<u>40</u>
<u>(4)</u>	<u>Annua</u>	l report fees:		
	<u>(A)</u>	No amendments to public offering statement	<u>\$</u> \$	<u>40</u>
	<u>(B)</u>	With amendments to public offering statement	<u>\$</u>	100
<u>(5)</u>	Penalt	y fee for subdividers for failure to submit an annual re	port	t
	<u>shall b</u>	e the penalty fee of \$40, in addition to delinquent ann	ual	
	report	fees		
(6)	Subdiv	vision consultant fee for the review of a project filings	s sha	<u>ll be</u>
	determ	nined by agreement between the State and the subdivi	sion	ш.
	<u>consul</u>	· · · · · · · · · · · · · · · · ·	h:	HRS
	§§26-9	9, 484-20) (Imp: HRS §§26-9, 484-20)		

§16-53-41 <u>Veterinary medicine</u>. The fees for the board of veterinary examiners shall be as provided in this section:
(1) Application fee
§ 100

Appl	ication fee	\$ 100
Origi	nal license fee	[\$100] <u>\$130</u>
Licer	nse fees:	
(A)	First year of the biennium (original	
	license fee, plus one-half of the	
	biennial renewal fee)	[\$200] <u>\$260</u>
	Origi Licer	license fee, plus one-half of the

	(B)	Second year of the biennium (original license fee)	[\$10	00] <u>\$130</u>		
(4)		ination and reexamination fees:	1	4 1		
	(A)	NBE and CCT examination and other examination fees as determined by agreement between the boa				
		professional testing service	10 00	u u		
	(B)	State subject exam	\$	30		
(5)	· · ·	ination administration fees for the exams listed in		ž		
(-)		raph (4)(A)	\$	50		
(6)		ination handscore fee for the exam listed in				
		raph (4)(B)	\$	20		
(7)		ination review fee for the exam listed in	- 200			
		raph (4)(B)	\$	25		
(8)		val fee [for the practice of veterinary medicine]		00] <u>\$260</u>		
(9)		nactive fee and reactivation fee [\$10] <u>\$12</u>				
(10)	Resto	ration fee for failure to renew veterinary license sha	ill be	the		
	penalt	ty fee of \$100, in addition to the renewal fee[.]				
(11)	Comp	liance resolution fund:				
	(A)	Compliance resolution fund fee	and the second	5] <u>\$50</u>		
	(B)	Annual compliance resolution fund fee	7583	5] <u>\$50</u>		
	(C)	Biennial compliance resolution fund fee	225	0] <u>\$100</u>		
		[Eff 9/30/83; am and comp 6/7/85; comp 12/7/85	; am	and		
	comp 10/3/86; comp 5/1/87; comp 12/7/87; comp 11/25/88;					
	comp 12/21/89; comp 10/4/91; am and comp 6/10/94; am					
		and comp 7/18/94; am and comp 6/13/00; comp	11/22	/02;		
		am and comp 7/21/08; comp 9/2/10; a	am	and		
	з.	comp ] (Auth: HRS	§§2	.6-9,		
		436B-13.3, 436B-15) (Imp: HRS §§26-9, 436B-13	.3, 47	1-8,		
		471-9)				

§16-53-42 Repealed. [R 11/25/88]

§16-53-43 Repealed. [R 11/25/88]

§16-53-44 Repealed. [R 11/25/88]

§16-53-45 Repealed. [R 11/25/88]

§16-53-46 Repealed. [R 11/25/88]

§16-53-47 Repealed. [R 11/22/02]

§16-53-48 Repealed. [R 11/25/88]

§16-53-49 Repealed. [R 11/25/88]

§16-53-50 Repealed. [R 11/25/88]"

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

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

4. These amendments to and compilation of chapter 16-53, 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.

# CATHERINE P. AWAKUNI COLÓN Director of Commerce and Consumer Affairs

# APPROVED AS TO FORM:

Deputy Attorney General

# Exhibit 5



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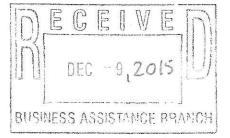
# DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Amendments to Chapter 16-14 Hawaii Administrative Rules

Date

# SUMMARY

1. Chapter 16-14, Hawaii Administrative Rules, entitled "Insurance Holding Company System", is amended and compiled to read as follows:



## HAWAII ADMINISTRATIVE RULES

## TITLE 16

# DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

#### CHAPTER 14

# INSURANCE HOLDING COMPANY SYSTEM

C1/ 1/ 1	T (* • • •
§16-14-1	Definitions
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§16-14-2 General requirements for forms

§16-14-3 Information unknown or unavailable

§16-14-4 Subsidiaries of domestic insurers

\$16-14-5 Statement for acquisition of control <u>and preacquisition</u> <u>notification</u>

§16-14-6 Annual registration

§16-14-7 Disclaimers and termination of registration

§16-14-8 Transactions subject to prior notice

<u>§16-14-9</u> Enterprise Risk Report

§16-14-[9]10 Extraordinary dividends and other distributions

§16-14-[10]11 Adequacy of surplus

- Form A Statement Regarding the Acquisition of Control of or Merger with a Domestic Insurer
- Form B
   Insurance Holding Company System Annual Registration

   Statement
   Statement
- Form C Summary of Changes to Registration Statement
- Form D Prior Notice of a Transaction
- Form E Pre-Acquisition Notification Form
- Form F Enterprise Risk Report

§16-14-1 <u>Definitions</u>. As used in this chapter:

"Executive officer" means chief executive officer, chief operating officer, chief financial officer, treasurer, secretary, controller, or any other individual performing functions corresponding to those performed by the foregoing officers under whatever title.

"Statement" means information required to be filed with the commissioner pursuant to sections 431:11-104 to 431:11-104.5, 431:11-105, and 431:11-106,

HRS, and the following guidelines set forth in Forms A, B, C,  $\underline{D}, \underline{E}$  and  $[\underline{D}]\underline{F}$  at the end of this chapter.

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"Ultimate controlling person" means a person which is not controlled by any other person.

Unless the context requires otherwise, terms found in this chapter are used as defined in section 431:11-102, HRS. Other terminology is used as defined in chapter 431, HRS, or industry usage if not defined in chapter 431, HRS. [Eff 3/14/94; am and comp ] (Auth: HRS §§431:2-201, 431:11-109) (Imp: HRS §§431:11-104, 431:11-105, 431:11-106)

§16-14-2 <u>General requirements for forms.</u> (a) Forms A, B, C, <u>D</u>, <u>E</u> and [D]<u>F</u> at the end of this chapter are made a part of this chapter. The forms shall be used as guides in the preparation of the statements required by sections 431:11-104 to 431:11-104.5, 431:11-105, and 431:11-106, HRS; they are not intended as blank forms to be filled in. The statements filed shall contain the numbers and captions of all items of the form and the responses shall indicate clearly the items to which they respond. All instructions, whether appearing under the items of the form or elsewhere, shall be omitted, provided that the text set forth for signature and certification requirements shall be followed. Unless expressly provided otherwise, if any item is inapplicable or if the response to an item is in the negative, that response shall be expressly stated.

[(c)](b) Statements shall be prepared [on paper 8 1/2" by 11" in size and bound at the top or top left corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. All copies of any statement, financial statement, or exhibit shall be clear,] <u>electronically.</u> Statements shall be easily readable and suitable for review and <u>reproduction.[</u>, and] Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable on photocopies. Statements shall be in the English language, and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a certified translation into the English language, and any monetary value shown in a foreign currency shall be converted into United States currency.

[(b)](c)Two complete copies of each statement, including exhibits and all other papers and documents filed as part of the statement, shall be filed with the commissioner and shall be [manually] signed in the manner prescribed on the form. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of the power of attorney or other authority shall also be filed with the statement. (d) Information required by any item of Form A, Form B, Form D, Form E or Form [D]F may be incorporated by reference in response or partial response to any other item. Information contained in any financial statement, annual report, proxy statement filed with a governmental authority, or any other document may be incorporated by reference in response or partial response to any item of Form A, Form B, Form D, Form E or Form [D]F, provided that the document [or paper] is filed as an exhibit to the statement. However, documents currently on file with the commissioner which were filed within three years of the date the statement is filed need not be attached as exhibits. Excerpts of documents may be filed as exhibits or in documents are extensive. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that the material is to be incorporated by reference in response to the item. Material shall not be incorporated by reference in any case where incorporation would render the statement incomplete, unclear, or confusing.

(e) Where an item requires a summary or outline of the provisions of any document, only a brief description shall be given of the pertinent provisions of the document. The summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with the commissioner filed within three years of the date the statement is filed. Where two or more documents which must be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, the person filing may file a copy of only one of the documents with a schedule identifying the omitted documents and setting forth the material details in which the documents differ from the documents filed as exhibits.

(f) In addition to the information expressly required in Form A, Form B, Form C, Form D, Form E and Form [D]F, the person filing shall include all additional material which may be necessary to make the information contained in the statements not misleading. The person filing may also file exhibits in addition to those expressly required. The exhibits shall be marked to indicate clearly the subject matter to which they refer.

(g) Changes to Form A, Form B, Form C, <u>Form D, Form E</u> or Form [D]<u>F</u> shall include on the top of the cover page the phrase: "Change No. __ to Form _" and shall indicate the date of the change and not the date of the original filing.

(h) If an applicant requests a hearing on a consolidated basis pursuant to section 431:11-104(d)(3), HRS, in addition to filing the Form A with the commissioner, the applicant shall file a copy of Form A with the National Association of Insurance Commissioners in electronic form.

[Eff 3/14/94; am and comp ] (Auth: HRS §§431:2-201, 431:11-109) (Imp: HRS §§431:11-104, 431:11-105, 431:11-106)

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§16-14-3 <u>Information unknown or unavailable.</u> [(a) Required information need be given only when it is known or reasonably available to the person filing the statement. If any required information is unknown and not reasonably available to the person filing, either because obtaining the information would involve unreasonable effort or expense, or because the information rests peculiarly within the knowledge of another person not affiliated with the person filing, the information may be omitted, provided that:

- (1) The person filing shall give all of the information on the subject that it possesses or can acquire without unreasonable effort or expense, together with the sources of the information; and
- (2) The person filing shall include an explanation either:
  - (A) Showing that unreasonable effort or expense would be involved; or
  - (B) Indicating the absence of any affiliation with the person, the name and address of the person who has the information and stating the result of a request made to that person for the information.

(b)]If the person filing cannot practically furnish any required information, document, or report at the required time, the person [may]<u>shall</u> file with the commissioner a separate document:

- (1) Identifying the information, document, or report in question;
- (2) Stating why filing at the required time is impractical; and
- (3) Requesting an extension of time for filing the information, document, or report to a specified date.

The request for an extension shall be deemed granted unless the commissioner enters an order denying the request within thirty days after receipt of the request. [Eff 3/14/94; comp ] (Auth: HRS §§431:2-201, 431:11-109) (Imp: HRS §§431:11-104, 431:11-105, 431:11-106)

§16-14-4 <u>Subsidiaries of domestic insurers.</u> The authority to invest in subsidiaries under section 431:11-103(b), HRS, is in addition to any authority to invest in subsidiaries which may be contained in any other provision of chapter 431, HRS. [Eff 3/14/94; comp ] (Auth: HRS §§431:2-201, 431:11-109) (Imp: HRS §431:11-103)

§16-14-5 <u>Statement for acquisition of control and preacquisition</u> <u>notification</u>. (a) A person required to file a statement pursuant to section 431:11-104, HRS, shall furnish the required information utilizing Form A <u>and the</u> <u>required information on Form E described in subsections (e), (f) and (g) below.</u> (b) The person filing the statement required by section 431:11-104, HRS, shall promptly advise the commissioner of any changes in the information furnished on Form A arising after the date upon which the information was furnished but before the commissioner's disposition of the application for approval.

(c) If the person being acquired is a "domestic insurer" as defined by section 431:11-104(a)(4), HRS, the name of the domestic insurer on the cover page should be indicated as follows: "ABC Insurance Company, a subsidiary of XYZ Holding Company."

(d) Where a domestic insurer is being acquired, references to "the insurer" contained in Form A shall refer to both the domestic insurer and its subsidiaries.

(e) If a domestic insurer, including any person controlling a domestic insurer, is proposing a merger or acquisition pursuant to section 431:11-104(a)(1), HRS, that person shall file a preacquisition notification form, Form E.

(f) If a non-domiciliary insurer licensed to do business in this state is proposing a merger or acquisition pursuant to section 431:11-104.2, HRS, that person shall file a preacquisition notification form, Form E. No preacquisition notification form need be filed if the acquisition is beyond the scope of section 431:11-104.2, HRS, as set forth in section 431:11-104.2(b), HRS.

(g) In addition to the information required by Form E, the commissioner may require an expert opinion as to the competitive impact of the proposed acquisition. [Eff 3/14/94; am and comp ] (Auth: HRS §§431:2-201, 431:11-109) (Imp: HRS §431:11-104)

§16-14-6 <u>Annual registration</u>. (a) An insurer required to file an annual registration statement pursuant to section 431:11-105, HRS, shall furnish the required information utilizing Form B and Form C.

[(b) An insurer subject to the filing requirements of section 431:11-105, HRS, shall file a copy of Form C in each state in which the insurer is authorized to do business if requested by the insurance commissioner of that state.]

[(c)](b) An amendment to Form B shall be filed within fifteen days after the end of any month in which there is a material change to the information provided in the annual registration statement.

[(d)](c) Amendments to Form B shall be filed in the Form B format, but only those items which are being amended shall be reported. Each amendment shall include at the top of the cover page "Amendment No.__ to Form B for (insert year)" and shall indicate the date of the change and not the date of the original filing.

[(e)](d) Any authorized insurer may file a registration statement on behalf of any affiliated insurer or insurers which are required to register under section 431:11-105, HRS. A registration statement may include information regarding any

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insurer in the holding company system even if the insurer is not authorized to do business in this State. In lieu of filing a registration statement on Form B, the authorized insurer may file a copy of the registration statement or similar report which it is required to file in its state of domicile, provided that:

- (1) The statement or report contains substantially the same information required to be furnished on Form B; and
- (2) The filing insurer is the principal insurance company in the insurance holding company system and the filing contains a brief statement of facts which will substantiate the filing insurer's claim that it is the principal insurer in the insurance holding company system.

[(f)](e) With the prior approval of the commissioner, an unauthorized insurer may follow any of the procedures permitted under subsection [(e)](d).

[(g)](f) Any insurer may make filings pursuant to section 431:11-105(h) and (i), HRS, without obtaining the prior approval of the commissioner. The commissioner, however, may require individual filings if the commissioner deems individual filings necessary in the interest of clarity, ease of administration, or the public good. [Eff 3/14/94; comp ] (Auth: HRS §§431:2-201, 431:11-109) (Imp: HRS §431:11-105)

§16-14-7 <u>Disclaimers and termination of registration</u>. (a) A disclaimer of affiliation or a request for termination of registration may be made when a person does not, or will not upon the taking of some proposed action, control another person (hereinafter referred to as "the subject"). The disclaimer shall contain the following information:

- (1) The number of authorized, issued, and outstanding voting securities of the subject;
- (2) The number and percentage of shares of the subject's voting securities which the person whose control is disclaimed, and all affiliates of that person, hold of record, own beneficially, or have a right to acquire, directly or indirectly;
- (3) All material relationships and bases for affiliation between the subject and the person whose control is disclaimed and all affiliates of that person; and
- (4) A statement explaining why the person whose control is disclaimed does not control the subject.

(b) A request for termination of registration shall be deemed granted unless the commissioner notifies the registrant otherwise within thirty days after receipt of the request. [Eff 3/14/94; comp ] (Auth: HRS §§431:2-201, 431:11-109) (Imp: HRS §§431:11-104, 431:11-105, 431:11-106) §16-14-8 <u>Transactions subject to prior notice</u>. (a) An insurer required to give notice of a proposed transaction pursuant to section 431:11-106, HRS, shall furnish the required information on Form D.

(b) Management agreements, service agreements, and cost sharing arrangements shall at a minimum and as applicable:

- (1) Identify the person providing services and the nature of such services;
- (2) Set forth the methods to allocate costs;
- (3) <u>Require timely settlement, not less frequently than on a quarterly basis, and compliance with the requirements in the National Association of Insurance Commissioners' Accounting Practices and Procedures Manual;</u>
- (4) Prohibit advancement of funds by the insurer to the affiliate except to pay for services defined in the agreement;
- (5) State that the insurer will maintain oversight for functions provided to the insurer by the affiliate and that the insurer will monitor services annually for quality assurance;
- (6) Define books and records of the insurer to include all books and records developed or maintained under or related to the agreement;
- (7) Specify that all books and records of the insurer are and remain the property of the insurer and are subject to control of the insurer;
- (8) State that all funds and invested assets of the insurer are the exclusive property of the insurer, held for the benefit of the insurer and are subject to the control of the insurer;
- (9) Include standards for termination of the agreement with cause;
- (10) Include procedures for termination of the agreement without cause;
- (11) Include provisions for indemnification of the insurer in the event of gross negligence or willful misconduct on the part of the affiliate providing the services;
- (12) Specify that, if the insurer is placed in receivership or seized by the commissioner under article 15, chapter 431, HRS:
  - (A) All of the rights of the insurer under the agreement extend to the receiver or commissioner; and,
  - (B) <u>All books and records will immediately be made available to</u> the receiver or the commissioner, and shall be turned over to the receiver or commissioner immediately upon the receiver or the commissioner's request;
- (13) Specify that the affiliate has no automatic right to terminate the agreement if the insurer is placed in receivership pursuant to article 15, chapter 431, HRS; and

(14) Specify that the affiliate will continue to maintain any systems, programs, or other infrastructure notwithstanding a seizure by the commissioner under article 15, chapter 431, HRS, and will make them available to the receiver, for so long as the affiliate continues to receive timely payment for services rendered. [Eff 3/14/94; am and comp ] (Auth: HRS §\$431:2-201, 431:11-109) (Imp: HRS §431:11-106)

§16-14-9 Enterprise risk report. The ultimate controlling person of an<br/>insurer required to file an enterprise risk report pursuant to section 431:11-105(1),<br/>HRS, shall furnish the required information on Form F. [Eff am and<br/>comp<br/>[(Auth: HRS §§431:2-201, 431:11-109) (Imp: HRS<br/>§431:11-105)

§16-14-[9]10 Extraordinary dividends and other distributions. (a) Requests to the commissioner for approval of extraordinary dividends or any other extraordinary distribution to shareholders shall include the following:

- (1) The amount of the proposed dividend;
- (2) The date established for payment of the dividend;
- (3) A statement as to whether the dividend is to be in cash or other property and, if in property, a description of the property, its cost, and its fair market value, together with an explanation of the basis for the valuation;
- (4) A copy of the calculations determining that the proposed dividend is extraordinary, including:
  - (A) The amounts, dates, and form of payment of all dividends or distributions (including regular dividends but excluding distributions of the insurer's own securities) paid during the previous twelve consecutive months;
  - (B) Surplus as regards policyholders (total capital and surplus) as of the preceding December 31;
  - (C) If the insurer is not a life insurer, the net income less realized capital gains for the twelve month period ending on the preceding December 31 and the two preceding twelve month periods; and
  - (D) If the insurer is not a life insurer, the dividends paid to stockholders, excluding distributions of the insurer's own securities in the preceding two calendar years;

- (5) A balance sheet and statement of income for the period between the last annual statement filed with the commissioner and the end of the month preceding the month in which the request for dividend approval is submitted; and
- (6) A brief statement as to the effect of the proposed dividend upon the insurer's surplus, the reasonableness of the surplus in relation to the insurer's outstanding liabilities, and the adequacy of the surplus relative to the insurer's financial needs.

(b) Subject to section 431:11-106(b), HRS, no insurer shall pay any extraordinary dividend or make any other distribution to its shareholders until:

- (1) Thirty days after the commissioner has received notice of the declaration thereof and has not within the period disapproved the payment; or
- (2) The commissioner shall have approved the payment within the thirty-day period.

(c) An insurer shall report to the commissioner all dividends and other distributions to shareholders made pursuant this section and section 431:11-106, HRS, within fifteen days following the payment. [Eff 3/14/94; am and comp ] (Auth: HRS §§431:2-201, 431:11-109) (Imp: HRS §431:11-106)

§16-14-[10]<u>11</u> Adequacy of surplus. The factors set forth in section 431:11-106(d), HRS, are not intended to be an exhaustive list. In determining the adequacy and reasonableness of an insurer's surplus, no single factor is necessarily controlling. The commissioner shall consider the net effect of all of the factors, along with other factors bearing on the financial condition of the insurer. In comparing the surplus maintained by other insurers, the commissioner shall consider the extent to which each of these factors varies among insurers. In determining the quality and liquidity of investments in subsidiaries, the commissioner shall consider the individual subsidiary and may discount or disallow its valuation to the extent warranted by individual investments. [Eff 3/14/94; am and comp ] (Auth: HRS §§431:2-201, 431:11-109) (Imp: HRS §431:11-106)

9

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

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

4. These amendments to and compilation of chapter 16-14, 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.

> Gordon I. Ito Insurance Commissioner

APPROVED AS TO FORM:

Deputy Attorney General

## FORM A

# STATEMENT REGARDING THE ACQUISITION OF CONTROL OF OR MERGER WITH A DOMESTIC INSURER

## (Name of Domestic Insurer)

By

## (Name of Acquiring Person (Applicant)) Filed with the Insurance Commissioner of the State of Hawaii Dated:

Name, title, address, and telephone number of individual to whom notices and correspondence concerning this statement should be addressed:

#### ITEM 1. INSURER AND METHOD OF ACQUISITION

State the name and address of the domestic insurer to which this application relates and a brief description of how control is to be acquired.

# ITEM 2. IDENTITY AND BACKGROUND OF THE APPLICANT

(a) State the name and address of the applicant seeking to acquire control over the insurer.

(b) If the applicant is not an individual, state the nature of its business operations for the past five years or for the period the applicant and any predecessors have been in existence if less than five years. Briefly describe the business which the applicant and its subsidiaries intend to do.

(c) Furnish a chart clearly presenting the identities and the inter-relationships among the applicant and all of its affiliates. [No affiliate need be identified if its total assets are equal to less than one half of one per cent of the total assets of the ultimate controlling person affiliated with the applicant.] Indicate in the chart the percentage of voting securities of each person which is owned or controlled by the applicant or by any other person. If control of any person is maintained other than by the ownership or control of voting securities, indicate the basis of control. As to each person specified in the chart, indicate the type of organization (e.g. corporation, trust, partnership) and the state or other jurisdiction of domicile. If court proceedings involving a reorganization or liquidation are pending with respect to any person, and set forth the title of the court, the nature of the proceedings, and the date when the proceedings commenced.

# ITEM 3. IDENTITY AND BACKGROUND OF INDIVIDUALS ASSOCIATED WITH THE APPLICANT

[State] On the biographical affidavit, include an independent third party background check, and state the following information with respect to (1) the applicant if the applicant is an individual or (2) all persons who are directors, executive officers, or owners of ten per cent or more of the voting securities of the applicant if the applicant is not an individual.

(a) Name and business address;

(b) Current principal business activity, occupation, or employment including position and office held and the name, principal business, and address of any corporation or other organization in which the employment is carried on;

(c) Material occupations, positions, offices, or employment during the last five years, giving the starting and ending dates of each and the name, principal business, and address of any business corporation or other organization in which each occupation, position, office, or employment was carried on. If any occupation, position, office, or employment required licensing by or registration with any federal, state, or municipal governmental agency, indicate that fact, the current status of the licensing or registration, and an explanation of any surrender, revocation, suspension, or disciplinary proceedings in connection therewith.

(d) Whether or not the person has ever been convicted in a criminal proceeding, excluding minor traffic violations, during the last ten years and, if so, give the date, nature of conviction, name and location of court, and penalty imposed or other disposition of the case.

## ITEM 4. NATURE, SOURCE AND AMOUNT OF CONSIDERATION

(a) Describe the nature, source, and amount of funds or other consideration used or to be used in effecting the merger or other acquisition of control. If any part of the funds or other consideration is borrowed or otherwise obtained for the purpose of acquiring, holding, or trading securities, furnish a description of the transaction, the names of the parties thereto, the relationship, if any, between the borrower and the lender, the amounts borrowed or to be borrowed, and copies of all agreements, promissory notes, and security arrangements relating thereto.

(b) Explain the criteria used in determining the nature and amount of the consideration.

(c) If the source of the consideration is a loan made in the lender's ordinary course of business and if the applicant wishes the identity of the lender to remain confidential, the applicant must make a specific request.

#### ITEM 5. FUTURE PLANS OF INSURER

Describe any plans or proposals which the applicant may have to declare an extraordinary dividend, liquidate the insurer, sell the insurer's assets to or merge the insurer with any person, or make any other material change in the insurer's business operations, corporate structure, or management.

## ITEM 6. VOTING SECURITIES TO BE ACQUIRED

State the number of shares of the insurer's voting securities which the applicant, its affiliates, and any person listed in Item 3 plan to acquire, the terms of the offer, request, invitation, agreement, or acquisition, and the method by which the fairness of the proposal was arrived at.

# ITEM 7. OWNERSHIP OF VOTING SECURITIES

State the amount of each class of any voting security of the insurer which is beneficially owned or concerning which there is a right to acquire beneficial ownership by the applicant, its affiliates, or any person listed in Item 3.

# ITEM 8. CONTRACTS, ARRANGEMENTS, OR UNDERSTANDINGS WITH RESPECT TO VOTING SECURITIES OF THE INSURER

Give a full description of any contracts, arrangements, or understandings with respect to any voting security of the insurer in which the applicant, its affiliates, or any person listed in Item 3 is involved, including, but not limited to, transfer of any of securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. The description shall identify the persons with whom the contracts, arrangements, or understandings have been made.

# ITEM 9. RECENT PURCHASES OF VOTING SECURITIES

Describe any purchases of voting securities of the insurer by the applicant, its affiliates, or any person listed in Item 3 during the twelve calendar months preceding the filing of this Statement. Include in the description the dates of purchase, the names of the purchasers, and the consideration paid or agreed to be paid. State whether any of the voting securities purchased are hypothecated.

# ITEM 10. RECENT RECOMMENDATIONS TO PURCHASE

Describe any recommendations to purchase voting securities of the insurer made by the applicant, its affiliates, or any person listed in Item 3, or by anyone based upon interviews or at the suggestion of the applicant, its affiliates, or any person listed in Item 3 during the twelve calendar months preceding the filing of this statement.

## ITEM 11. AGREEMENTS WITH BROKER-DEALERS

Describe the terms of any agreement, contract, or understanding made with any broker-dealer as to solicitation of voting securities of the insurer for tender and the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard thereto.

#### ITEM 12. FINANCIAL STATEMENTS AND EXHIBITS

(a) List under this item the financial statements, [and] exhibits, and three-year financial projections of the insurer(s) attached to this statement.

(b) Include the annual financial statements of the persons identified in Item 2(c) for the preceding five fiscal years (or for the period the applicant, its affiliates, and any predecessors have been in existence, if less than five years), and similar information covering the period from the end of the person's last fiscal year, if that information is available. The statements may be prepared on either an individual basis or on a consolidated basis if consolidated statements are prepared in the usual course of business, unless the commissioner requires otherwise.

The annual financial statements of the applicant shall be accompanied by the certificate of an independent certified public accountant stating that the statements present fairly the financial position of the applicant and the results of its operations for the year then ended in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the applicant is an insurer which is actively engaged in the business of insurance, the financial statements need not be certified, provided they are based on the annual statement filed with the insurance department of the person's domiciliary state and are in accordance with the requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of that state.

(c) File as exhibits copies of all tender offers for, requests or invitations for, tenders of, exchange offers for, and agreements to acquire or exchange any voting securities of the insurer and of any additional soliciting material relating thereto, any proposed employment, consultation, advisory, or management contracts concerning the insurer, annual reports to the stockholders of the insurer and the applicant for the last two fiscal years, and any additional documents or papers required by this form or sections 16-14-2 and 16-14-3.

## ITEM 13. AGREEMENT REQUIREMENTS FOR ENTERPRISE RISK MANAGEMENT

Applicant agrees to provide, to the best of its knowledge and belief, the information required by Form F within fifteen (15) days after the end of the month in which the acquisition of control occurs.

# ITEM [13]14. SIGNATURE AND CERTIFICATION Signature and certification required as follows: SIGNATURE

Pursuant to the requirements of section 431:11-105, HRS, the Registrant has caused this summary of registration statement to be duly signed on its behalf in the City of ______, State of ______ on this ______ day of ______, [19]20

(SEAL)

Name of Registrant

By

Gordon I. Ito, Insurance Commissioner

Attest:

(Signature of Officer) (Title)

Attest:

(Signature of Officer) (Title)

#### CERTIFICATION

I have duly executed the attached annual registration statement dated ________, [19]20 ______, for and on behalf of <u>(name of applicant)</u>; I am the <u>(title of officer)</u> of <u>(name of applicant)</u>, and I am authorized to execute and file this annual registration statement. I am familiar with this annual registration statement and the contents thereof, and the facts set forth therein are true to the best of my knowledge, information, and belief.

(Signature)

(Type or print name)

## FORM B

# INSURANCE HOLDING COMPANY SYSTEM ANNUAL REGISTRATION STATEMENT

#### Filed with the Insurance Commissioner of the State of Hawaii

By

(Name of Registrant) On Behalf of Following Insurance Companies:

Name

Address

Date: _____, [19]20 _____

Name, title, address, and telephone number of the individual to whom notices and correspondence concerning this statement should be addressed:

#### ITEM 1. IDENTITY AND CONTROL OF REGISTRANT

Furnish the exact name of each insurer registering or being registered (hereinafter called the "Registrant"), the home office address and principal executive offices of each; the date on which each Registrant became part of the insurance holding company system; and the method(s) by which control of each Registrant was acquired and is maintained.

#### ITEM 2. ORGANIZATIONAL CHART

Furnish a chart or listing clearly presenting the identities of and interrelationships among all affiliated persons within the insurance holding company system. [No affiliate need be shown if its total assets are equal to less than 1/2 of one per cent of the total assets of the ultimate controlling person within the insurance holding company system.] The chart or listing should show the percentage of each class of voting securities of each affiliate which is owned, directly or indirectly, by another affiliate. If control of any person within the system is maintained other than by the ownership or control of voting securities, indicate the basis of control. As to each person specified in the chart or listing, indicate the type of organization (e.g., corporation, trust, partnership) and the state or other jurisdiction of domicile.

# ITEM 3. THE ULTIMATE CONTROLLING PERSON

As to the ultimate controlling person in the insurance holding company system, furnish the following information:

- (1) Name;
- (2) Home office address;
- (3) Principal executive office address;
- (4) The organizational structure of the person, i.e., corporation, partnership, individual, trust, etc.;
- (5) The principal business of the person;
- (6) The name and address of any person who holds or owns ten per cent or more of any class of voting security, the class of the security, the number of shares held of record or known to be beneficially owned, and the percentage of the class held or owned; and
- (7) If court proceedings involving a reorganization or liquidation are pending, indicate the title and location of the court, the nature of proceedings, and the date when the proceedings commenced.

## ITEM 4. BIOGRAPHICAL INFORMATION

If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, for [For] each of the directors and executive officers of the ultimate controlling person, state the individual's name, address, principal occupation, all offices and positions held during the past five years, and any conviction of a crime other than minor traffic violations [during the past ten years]. If the ultimate controlling person is an individual, state the individual's name, address, his or her principal occupation, all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations.

ITEM 5. TRANSACTIONS AND AGREEMENTS

Briefly describe the following agreements and transactions currently outstanding or which have occurred during the last calendar year between the Registrant and its affiliates:

- (1) Loans, other investments, or purchases, sales, or exchanges of securities of the affiliates by the Registrant or of the Registrant by its affiliates;
- (2) Purchases, sales, or exchanges of assets;
- (3) Transactions not in the ordinary course of business;
- (4) Guarantees or undertakings for the benefit of an affiliate which result in an actual or contingent exposure of the Registrant's assets to liability, other than insurance contracts entered into in the ordinary course of the Registrant's business;

- (5) All management agreements, service contracts, and cost-sharing arrangements;
- (6) Reinsurance agreements;
- (7) Dividends and other distributions to shareholders;
- (8) Consolidated tax allocation agreements; and
- (9) Any pledge of the Registrant's stock or of the stock of any subsidiary or controlling affiliate for a loan made to any member of the insurance holding company system.

No information need be disclosed if the information is not material for purposes of section 431:11-105, HRS. As to any sales, purchases, exchanges, loans or extensions of credit, investments, or guarantees involving one-half of one percent or less of the Registrant's admitted assets as of December 31 next preceding, the Registrant shall submit a sufficiently detailed description to permit the commissioner to evaluate the materiality of the transaction. The description shall include at least the following:

- (1) The nature and purpose of the transaction;
- (2) The nature and amounts of any payments or transfers of assets between the parties;
- (3) The identity of all parties to the transaction; and
- (4) The relationship of the affiliated parties to the Registrant.

The commissioner may request additional information at the commissioner's discretion. If the commissioner determines that a transaction is material, the commissioner shall notify the Registrant who shall file an Amendment to the registration statement pursuant to section 16-14-6[(d)](c), within thirty days from the date of the commissioner's notice, setting forth the required information about the transaction.

#### ITEM 6. LITIGATION OR ADMINISTRATIVE PROCEEDINGS

Briefly describe any litigation or administrative proceedings of the following types, either pending or concluded within the preceding fiscal year, to which the ultimate controlling person or any of its directors or executive officers was a party or of which the property of any such person is or was the subject, giving the names of the parties and the court or agency in which the litigation or proceeding is or was pending:

- (1) Criminal prosecutions or administrative proceedings by any government agency or authority which may be relevant to the trustworthiness of any party to the litigation or proceeding; and
- (2) Proceedings which may have a material effect upon the solvency or capital structure of the ultimate controlling person, including but not limited to bankruptcy, receivership, or other corporate reorganizations.

## ITEM 7. STATEMENT REGARDING PLAN OR SERIES OF TRANSACTIONS

Furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions whose purpose is to avoid statutory threshold amounts and the review that might otherwise occur.

# ITEM 8. FINANCIAL STATEMENTS AND EXHIBITS

(a) List under this item the financial statements and exhibits attached to this registration statement.

(b) [Include]<u>If the ultimate controlling person is a corporation, an</u> organization, a limited liability company, or other legal entity, the financial statements shall include the annual financial statements of the ultimate controlling person in the insurance holding company system as of the end of the person's latest fiscal year.

If at the time of the initial registration, the annual financial statements for the latest fiscal year are not available, annual statements for the previous fiscal year may be filed, along with similar financial information for subsequent periods to the extent the information is available. The financial statements may be prepared on either an individual basis or on a consolidated basis if consolidated statements are prepared in the usual course of business, unless the commissioner requires otherwise.

In addition, such financial statement shall be filed in a standard form and format adopted by the National Association of Insurance Commissioners, unless an alternative form is adopted by the Commissioner. Documentation and financial statements filed with the Securities and Exchange Commission or audited generally accepted accounting principles shall be deemed to be an appropriate form and format.

Unless the commissioner permits otherwise, the annual financial statements shall be accompanied by the certificate of an independent public accountant stating that the statements present fairly the financial position of the ultimate controlling person and the results of its operations for the year then ended in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the ultimate controlling person is an insurer which is actively engaged in the business of insurance, the annual financial statements need not be certified, provided they are based on the annual statement of the [insurer filed with the insurance department of the] insurer's domiciliary state and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of that state. Any ultimate controlling person who is an individual may file personal financial statements that are reviewed rather than audited by an independent public accountant. The review shall be conducted in accordance with standards for review of personal financial statements published in the Personal Financial Statements Guide by the American Institute of Certified Public Accountants. Personal financial statements shall be accompanied by the independent public accountant's Standard Review Report stating that the accountant is not aware of any material modifications that should be made to the financial statements in order for the statements to conform with United States generally accepted accounting principles.

(c) Exhibits shall include copies of the latest annual reports to shareholders of the ultimate controlling person and proxy material used by the ultimate controlling person; and any additional documents or papers required by this form or sections 16-14-2 and 16-14-3.

#### ITEM 9. FORM C REQUIRED

Form C, Summary of <u>Changes to</u> Registration Statement, shall be prepared and filed with this form.

# ITEM 10. SIGNATURE AND CERTIFICATION Signature and certification required as follows: SIGNATURE

Pursuant to the requirements of section 431:11-105, HRS, the Registrant has caused this annual registration statement to be duly signed on its behalf in the city of ______, State of ______ on this _____ day of ______.

(SEAL)

Name of Applicant

Ву____

(Name)(Title)

Attest:

(Signature of Officer) (Title)

## CERTIFICATION

I have duly executed the attached annual registration statement dated ________, [19]20 ______, for and on behalf of __(name of applicant) ; I am the __(title of officer) ______ of (name of applicant), and I am authorized to execute and file this annual registration statement. I am familiar with this annual registration statement and the contents thereof, and the facts set forth therein are true to the best of my knowledge, information, and belief.

(Signature)

(Type or print name)

## FORM C

#### SUMMARY OF CHANGES TO REGISTRATION STATEMENT

Filed with the Insurance Commissioner of the State of Hawaii By (Name of Registrant) On Behalf of Following Insurance Companies

Name

Address

Date: _____, [19]20

Name, title, address, and telephone number of the individual to whom notices and correspondence concerning this statement should be addressed:

Furnish a brief description of all items in the current annual registration statement which represent changes from the prior year's annual registration statement. Include specific references to the item numbers in the annual registration statement and to the terms contained therein, and make the description sufficiently detailed to permit proper evaluation by the commissioner.

Changes occurring under item 2 of Form B relating to changes in the percentage of each class of voting securities held by each affiliate need only be included where the changes result in ownership or holdings of ten per cent or more of voting securities, loss or transfer of control, or acquisition or loss of partnership interest.

Changes occurring under Item 4 of Form B need only be included where:

- (1) An individual is, for the first time, made a director or executive officer of the ultimate controlling person;
- (2) A director or executive officer terminates responsibilities with the ultimate controlling person; or
- (3) An individual is named president of the ultimate controlling person.

If a transaction disclosed on the prior year's annual registration statement has been changed, include a description of the nature of the change. If a transaction disclosed on the prior year's annual registration statement has been effectuated, furnish the mode of completion and any flow of funds between affiliates resulting from the transaction.

Furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions whose purpose is to avoid statutory threshold amounts and the review that might otherwise occur.

# SIGNATURE AND CERTIFICATION

# Signature and certification required as follows: SIGNATURE

Pursuant to the requirements of section 431:11-105, HRS, the Registrant has caused this summary of registration statement to be duly signed on its behalf in the City of ______, State of ______ on this ______ day of ______, [19]20

(SEAL)

Name of Registrant

(Name)(Title)

By_

Attest:

(Signature of Officer) (Title)

## CERTIFICATION

I have duly executed the attached summary of registration statement dated ______, [19]20, for and on behalf of ___(name of registrant) _____. I am the ______ (title of officer) of ______ (name of registrant) _____, and I am authorized to execute and file this summary of registration statement. I am familiar with this summary of registration statement and the contents thereof, and the facts set forth therein are true to the best of my knowledge, information, and belief.

(Signature)

(Type or print name)

## FORM D

## PRIOR NOTICE OF A TRANSACTION

# Filed with the Insurance Commissioner of the State of Hawaii By (Name of Registrant)

On Behalf of Following Insurance Companies

Name

Address

Date: _____, [19]20

Name, title, address, and telephone number of the individual to whom notices and correspondence concerning this statement should be addressed:

ITEM 1. IDENTITY OF PARTIES TO TRANSACTION

Furnish the following information for each of the parties to the transaction:

- (1) Name;
- (2) Home office address;
- (3) Principal executive office address;
- (4) The organizational structure, i.e. corporation, partnership, individual, trust, etc.;
- (5) A description of the nature of the parties' business operations;
- (6) Relationship, if any, of other parties to the transaction to the insurer filing the notice, including any ownership or debtor/creditor interest by any other parties to the transaction in the insurer seeking approval, or by the insurer filing the notice in the affiliated parties; and
- (7) Where the transaction is with a non-affiliate, the name of any affiliate which will receive, in whole or in substantial part, the proceeds of the transaction.

## ITEM 2. DESCRIPTION OF THE TRANSACTION

Furnish the following information for each transaction for which notice is being given:

- (1) A statement as to whether notice is being given under section 431:11-106(a)(2)(A), (B), (C), (D), (E), (F) or [(E)](G), HRS;
- (2) A statement of the nature of the transaction; and
- (3) <u>A statement of how the transaction meets the 'fair and reasonable'</u> standard of section 431:11-106(a)(1)(A), HRS; and

[(3)](4)The proposed effective date of the transaction.

ITEM 3. SALES, PURCHASES, EXCHANGES, LOANS, EXTENSIONS OF CREDIT, GUARANTEES, OR INVESTMENTS Furnish a brief description of:

- (1) The amount and source of funds, securities, property, or other consideration for the sale, purchase, exchange, loan, extension of credit, guarantee, or investment, and whether any provision exists for purchase by the insurer filing notice, by any party to the transaction, or by any affiliate of the insurer filing notice;
- (2) The terms of any securities being received, if any; and
- (3) Any other agreements relating to the transaction such as contracts or agreements for services or consulting agreements.

If the transaction involves other than cash, furnish a description of the consideration, its cost, and its fair market value, together with an explanation of the basis for valuation.

If the transaction involves a loan, extension of credit, or guarantee, furnish a description of the maximum amount which the insurer will be obligated to make available under the loan, extension of credit, or guarantee, the date on which the credit or guarantee will terminate, and any provisions for the accrual or deferral of interest.

If the transaction involves an investment, guarantee, or other arrangement, state the time period during which the investment, guarantee, or other arrangement will remain in effect, together with any provisions for extension or renewal of the investment, guarantee, or arrangement. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the maximum amount which can at any time be outstanding or for which the insurer can be legally obligated under the loan, extension of credit, or guarantee is less than:

- (a) In the case of non-life insurers, the lesser of three per cent of the insurer's admitted assets or twenty five per cent of surplus as regards policyholders as of the December 31 next preceding; or
- (b) In the case of life insurers, three per cent of the insurer's admitted assets as of the December 31 next preceding.

# ITEM 4. LOANS OR EXTENSIONS OF CREDIT TO A NON-AFFILIATE

If the transaction involves a loan or extension of credit to any person who is not an affiliate, furnish a brief description of the agreement or understanding whereby the proceeds of the proposed transaction, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase the assets of, or to make investments in, any affiliate of the insurer making the loans or extensions of credit, and specify in what manner the proceeds are to be used to make a loan to, extend credit to, purchase assets of, or make investments in any affiliate. Describe the amount and source of securities, property, or other consideration for the loan or extension of credit and, if the transaction involves consideration other than cash, a description of the cost and fair market value of the consideration, together with an explanation of the basis for valuation. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the loan or extension of credit is one which equals less than, in the case of non-life insurers, the lesser of three per cent of the insurer's admitted assets or twenty five per cent of surplus as regards policyholders or, with respect to life insurers, three per cent of the insurer's admitted assets, each as of the December 31 next preceding.

#### ITEM 5. REINSURANCE

If the transaction is a reinsurance agreement or modification thereto, as described by section 431:11-106(a)(2)(C)(ii), HRS, or a reinsurance pooling agreement or modification thereto as described by 431:11-106(a)(2)(C)(i), furnish a description of the known or estimated amount of liability to be ceded or assumed in each calendar year, the period of time during which the agreement will be in effect, and a statement whether an agreement or understanding exists between the insurer and the non-affiliate that any portion of the assets constituting the consideration for the agreement will be transferred to one or more of the insurer's affiliates. Furnish a brief description of the consideration involved in the transaction and a brief statement of the effect of the transaction upon the insurer's surplus.

No notice need be given for reinsurance agreements or modifications thereto if the reinsurance premium or the change in the insurer's liabilities, or the projected reinsurance premium or change in the insurer's liabilities in any of the next three years, in connection with the reinsurance agreement is less than five per cent of the insurer's surplus as regards policyholders as of the December 31 next preceding. Notice shall be given for all reinsurance pooling agreements including modifications thereto.

# ITEM 6. MANAGEMENT AGREEMENTS, SERVICE AGREEMENTS, AND COST-SHARING ARRANGEMENTS.

For management and service agreements, furnish:

- (a) A brief description of the managerial responsibilities or services to be performed; and
- (b) A brief description of the agreement, including a statement of its duration, together with brief descriptions of the basis for compensation and the terms under which payment or compensation is to be made.

For cost-sharing arrangements, furnish:

- (a) A brief description of the purpose of the agreement;
- (b) A description of the period of time during which the agreement is to be in effect;
- (c) A brief description of each party's expenses or costs covered by the agreement; and
- (d) A brief description of the accounting basis to be used in calculating each party's costs under the agreement.
- (e) A brief statement as to the effect of the transaction upon the insurer's policyholder surplus;
- (f) A statement regarding the cost allocation methods that specifies whether proposed charges are based on "cost or market." If market based, rationale for using market instead of cost, including justification for the company's determination that amounts are fair and reasonable; and
- (g) <u>A statement regarding compliance with the National Association of</u> <u>Insurance Commissioners' Accounting Practices and Procedure</u> <u>Manual regarding expense allocation.</u>

## ITEM 7. SIGNATURE AND CERTIFICATION

# Signature and certification are required as follows: SIGNATURE

				11-106, HRS,	
registrant)	has caused	this notice to b	e duly signed	l on its behalf in th	ne city of
				day of	
, [19	]20				
3					
				Name of Applica	int
	(SEAL)		640)		
			By		
	-			(Name)(Title)	
Attest:					

(Signature of Officer) (Title)

# CERTIFICATION

I have duly executed the attached notice dated

_____, [19]20 _____, for and on behalf of (name of applicant); I am the (title of officer) of (name of applicant), and I am authorized to file the notice. I am familiar with the notice and the contents thereof, and the facts set forth therein are true to the best of my knowledge, information and belief.

(Signature)

(Type or print name)

# FORM E

# PRE-ACQUISITION NOTIFICATION FORM <u>REGARDING THE POTENTIAL COMPETITIVE IMPACT</u> <u>OF A PROPOSED MERGER OR ACQUISITION BY A</u> <u>NON-DOMICILIARY INSURER DOING BUSINESS IN THIS</u> <u>STATE OR BY A DOMESTIC INSURER</u>

(Name of Applicant)

(Name of Other Person Involved in Merger or Acquisition)

Filed with the Insurance Commissioner of the State of Hawaii Dated:

Name, title, address, and telephone number of individual to whom notices and correspondence concerning this statement should be addressed:

# ITEM 1. NAME AND ADDRESS

State the names and addresses of the persons who hereby provide notice of their involvement in a pending acquisition or change in corporate control.

### ITEM 2. NAME AND ADDRESSES OF AFFILIATED COMPANIES

State the names and addresses of the persons affiliated with those listed in Item 1. Describe their affiliations.

ITEM 3. NATURE AND PURPOSE OF THE PROPOSED MERGER OR ACQUISITION

State the nature and purpose of the proposed merger or acquisition.

# ITEM 4. NATURE OF BUSINESS

State the nature of the business performed by each of the persons identified in response to Item 1 and Item 2.

# ITEM 5. MARKET AND MARKET SHARE

State specifically what market and market share in each relevant insurance market the persons identified in Item 1 and Item 2 currently enjoy in this state. Provide historical market and market share data for each person identified in Item 1 and Item 2 for the past five years and identify the source of such data. Provide a determination as to whether the proposed acquisition or merger, if consummated, would violate the competitive standards of the state as stated in section 431:11-104.4, HRS. If the proposed acquisition or merger would violate competitive standards, provide justification of why the acquisition or merger would not substantially lessen competition or create a monopoly in the state.

For purposes of this question, market means direct written insurance premium in this state for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this state.

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# FORM F

# ENTERPRISE RISK REPORT

# Filed with the Insurance Commissioner of the State of Hawaii By

(Name of Registrant) On Behalf of Following Insurance Companies

Name

Address

<u>Date:</u> , <u>20</u>

<u>Name, title, address, and telephone number of the individual to whom</u> <u>notices and correspondence concerning this statement should be addressed:</u>

# ITEM 1. ENTERPRISE RISK

The Registrant/Applicant, to the best of its knowledge and belief, shall provide information regarding the following areas that could produce enterprise risk as defined in [insert cross reference to definition of Enterprise Risk in section 431:11-102, HRS, provided such information is not disclosed in the Insurance Holding Company System Annual Registration Statement filed on behalf of itself or another insurer for which it is the ultimate controlling person:

- Any material developments regarding strategy, internal audit findings, compliance or risk management affecting the insurance holding company system;
- <u>Acquisition or disposal of insurance entities and reallocating of</u> <u>existing financial or insurance entities within the insurance holding</u> <u>company system;</u>
- Any changes of shareholders of the insurance holding company system exceeding ten per cent or more of voting securities;
- <u>Developments in various investigations, regulatory activities or</u> <u>litigation that may have a significant bearing or impact on the</u> <u>insurance holding company system;</u>
- <u>Business plan of the insurance holding company system and</u> <u>summarized strategies for next twelve months;</u>

- Identification of material concerns of the insurance holding company system raised by supervisory college, if any, in the last year;
- <u>Identification of insurance holding company system capital</u> resources and material distribution patterns;
- <u>Identification of any negative movement, or discussions with rating</u> <u>agencies which may have caused, or may cause, potential negative</u> <u>movement in the credit ratings assessment of the insurance holding</u> company system (including both the rating score and outlook);
- Identification of any negative movement, or discussions with rating agencies which may have caused, or may cause, potential negative movement in individual insurers' financial strength ratings (including both the rating scores and outlooks) affecting the insurance holding company system;
- Information on corporate or parental guarantees throughout the holding company and the expected source of liquidity should such guarantees be called upon; and
  - Identification of any material activity or development of the insurance holding company system that, in the opinion of senior management, could adversely affect the insurance holding company system.

The Registrant/Applicant may attach the appropriate form most recently filed with the United States Securities and Exchange Commission, provided the Registrant/Applicant includes specific references to those areas listed in Item 1 for which the form provides responsive information. If the Registrant/Applicant is not domiciled in the United States, it may attach its most recent public audited financial statement filed in its country of domicile, provided the Registrant/Applicant includes specific references to those areas listed in Item 1 for which the financial statement provides responsive information.

### ITEM 2. OBLIGATION TO REPORT.

If the Registrant/Applicant has not disclosed any information pursuant to Item 1, the Registrant/Applicant shall include a statement affirming that, to the best of its knowledge and belief, it has not identified enterprise risk subject to disclosure pursuant to Item 1.

# Exhibit 6

DEPARTMENT OF LAND AND NATURAL RESOURCES

# Adoption of Chapter 13-86.1 Hawaii Administrative Rules

(Date)

 Chapter 13-86.1, Hawaii Administrative Rules, entitled "Sea Cucumber Management", is adopted to read as follows:

ų,

 $\mathbb{C}$ C 12 DEC 3 1200 BUSINESS ASSISTANCE BRANCH

# "HAWAII ADMINISTRATIVE RULES

### TITLE 13

### DEPARTMENT OF LAND AND NATURAL RESOURCES

### SUBTITLE 4 FISHERIES

#### PART V PROTECTED MARINE FISHERIES RESOURCES

#### CHAPTER 86.1

#### SEA CUCUMBER MANAGEMENT

§13-86.1-1	Definitions
§13-86.1-2	Commercial consumption fishery; prohibition
	Prompreion
§13-86.1-3	Commercial aquarium fishery; season;
	closure; restrictions
§13-86.1-4	Non-commercial fishery; daily bag
	limits
§13-86.1-5	Licenses, permits, and other exemptions
<b>B12 06 1 6</b>	
§13-86.1-6	Penalty

§13-86.1-1 <u>Definitions</u>. As used in this chapter, unless otherwise provided:

"Aquarium permit" means the permit issued by the department pursuant to section 188-31, HRS.

"Aquarium purposes" means to hold the sea cucumber alive in a state of captivity, whether as a pet, for scientific study, for public exhibition, for public display, or for sale for these purposes.

"Board" means the board of land and natural resources.

"Consumption purposes" means for food, medicine, or any other use whereby the sea cucumber is killed.

"Sea cucumber" means any echinoderm species of aquatic life in the class Holothuroidea.

validly obtained during an open season, provided that proper receipts are kept on file pursuant to HRS §189-11.

(e) There is established an annual catch limit for sea cucumber when taken for commercial aquarium purposes. The annual catch limit for sea cucumber for commercial aquarium purposes shall be 3,600 animals per year.

(f) The chairperson shall give notice of closure of the sea cucumber aquarium harvesting season when the annual catch limit is reached or exceeded or is anticipated to be reached or exceeded. [Eff

] (Auth: HRS §§189-10, 190-3) (Imp: HRS §§189-10, 189-11, 190-3)

§13-86.1-4 Non-commercial fishery; daily bag limits. Any person may take and possess up to ten sea cucumbers per day, provided that the sea cucumbers are taken and possessed for personal human use or consumption and not for commercial use or sale. [Eff ] (Auth: HRS §§187A-5, 190-3) (Imp: HRS §§187A-5, 190-3)

\$13-86.1-5 Licenses, permits, and other exemptions. Notwithstanding the provisions of this chapter, the department may issue the following licenses and permits to exempt persons from the provisions of this chapter:

- Licenses issued pursuant to sections 187A-3.5 or 189-6, HRS;
- (2) Permits issued pursuant to sections 187A-6, 188-37, or 190-4, HRS;
- (3) As may be otherwise provided by law. [Eff ] (Auth: HRS §§187A-3.5, 187A-6, 188-37, 189-6, 190-3) (Imp: HRS §§187A-3.5, 187A-6, 188-37, 189-6, 190-4)

§13-86.1-6 <u>Penalty.</u> (a) Any person violating any provision of this chapter shall be subject to: 2. The adoption of chapter 13-86.1, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

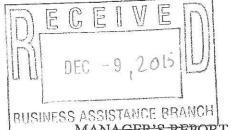
I certify that the foregoing are copies of the rules, drafted in the Ramseyer format, pursuant to the requirements of sections 91-4 and 91-4.1, Hawaii Revised Statutes, which were adopted on and filed with the Office of the Lieutenant Governor.

> SUZANNE CASE Chairperson Board of Land and Natural Resources

APPROVED AS TO FORM:

Deputy Attorney General

# Exhibit 7



# DEPARTMENT OF WATER County of Kaua'i

"Water has no Substitute – Conserve It!"

MANAGER'S REPORT No. 16-22

November 19, 2015

Re: Discussion and Possible Action on Former Approved Rules for Part 5, Facilities Reserve Charge

**<u>RECOMMENDATION</u>**: It is recommended that the Board adopt the Department of Water Rule Amendment to:

- Part 4, Fixing Rates for the furnishing of Water Service in the County of Kauai, Section VII, Facilities Reserve Charge.
- Part 5, Facilities Reserve Charge.
- Changing any reference to Part 4, Section VII in the rules to now accurately reflect the new Part 5.

# BACKGROUND:

The above proposed Rule Amendments have been previously reviewed and approved by the Board of Water Supply. The Rule Amendments has also been sent to the Small Business Regulatory Review Board. The following is a review of the most recent occurrences that took place regarding the proposed rules prior to the November 10, 2015 Public Hearing which was held at the Kauai County Council Chambers.

• <u>Part 4, Fixing Rates for the furnishing of Water Service in the County of Kauai,</u> Section VII, Facilities Reserve Charge.

The Department then proposed assessing the FRC based on the level of service. Since the FRC study determined the cost per gallon (\$18.82/gallon), the Department proposes calculating the impact fee based on the level of service (i.e. the standard gallon amount required per type of development) multiplied by the cost per gallon. For example, the number of gallons required for single family dwelling pursuant to the Water System Standard (max day demand) is 750 gallons per day, making the impact fee amount \$14,115.00. Since the level of service for agricultural meters varies depending on the size of the lot, the Department will determine a meter size and the applicant will be assessed by the cost of the meter size. This method in the proposed Part 4 Section VII of the DOW's Rules and Regulations was reviewed and approved by the Finance Committee at its May 21, 2015 meeting.

The Department also proposes updating the offset amounts to correlate with the study. Thus, the offset amount will no longer be apportioned to source storage and transmission as a 30%,30%,50% apportionment, but will now be 22%,41%,37% apportioned to source, storage and transmission, respectively. After talking with Mr. Bill Eddy, who testified on behalf of Grove Farm, the Department also proposes changing the offset rule to allow a zeroing out of offset liability in the category (source, storage, or transmission) where the developer provided 100% of the needed requirements. This change was not before the Finance Committee and is presented to the Board as a whole for the first time. Manager's Report 16-22 November 19, 2015 Page 2 of 7

At the Finance Committee meeting there were additional minor changes recommended by the Board and a public testifier. Requests for changes have been reviewed and the appropriate changes have been made as requested. These changes included defining the word "unit", updating the FRC amount, and making some minor grammatical wording.

A short summary of the revisions to Part 4 Section VII of DOW's Rules and Regulations are:

- a) Moved the definitions section up to the front of the Section.
- b) Considers the assessment of Facilities Reserve Charge (FRC) by level of service. FRC rationalization included the existing Rules and Regulation of the Department of Water, Water System Standards, water meter capacity and AWWA Manual of Water Supply Practices M22 (water meter size and flow capacity).
- c) Considers allowing an applicant who provides in its entirety all necessary source or storage or transmission main improvements or any combination thereof for applicant's development an offset of the entire percentage allowed for said source, storage and transmission main improvements.
- Part 5, Facilities Reserve Charge.

Rule addition "PART 5 FACILITIES RESERVE CHARGE". The Board at their July 23, 2015 Board meeting approved Part 4, Section VII FRC to be integrated with Part 5 FRC.

Part 5 was established to address in more detail:

- a) The Purpose and Authority for the Department's Facilities Reserve Charge.
- b) Applicability of the Facilities Reserve Charge.
- c) Collection and Expenditure of FRC (guidelines and procedures dealing with the FRC collected).

Notable changes of the Part 5 rule that the Board of Water Supply previously referred to Small Business Regulatory Review Board (SBRRB) at their July 23, 2015 Board meeting includes:

- a) Moving "Section IV Credits" to "Part 4, Section VII Facilities Reserve Charge, 6. FRC Offsets.
  - Section IV Credits deals with Grant Funds which may be used to credit FRC. The
    move is recommended to locate FRC Offsets together. The Department proposes to
    administer the FRC Offset provided by Grant funds similarly to the existing FRC
    Offset guidelines.
- b) Moving definitions "Grant Funds" and "Grantor" to "Part 4, Section VII Facilities Reserve Charge, 2. Definitions and Construction of Words".
- c) Revised Grace Period from one (1) year to three (3) years in Section III Collection and Expenditure of FRC, 5. Facilities Reserve Charge Paid Prior to Enactment of Part 5 Rules, b.
- d) Addition of item 6. Facilities Reserve Charge paid After Enactment of Part 5 Rules. Item
   6.

Manager's Report 16-22 November 19, 2015 Page 3 of 7

- Establishes guidelines and describes the Department's conditional approval for water service requests regarding length of time the conditional approval will be valid and procedures to secure water meter service approval.
- e) Addition of wording to item "6. Facilities Reserve Charges for Affordable and Work Force Facilities Housing Projects" which identifies that FRC shall be collected before building permit approval or installation of applicable meters, whichever occurs first.
  - Original wording required FRC collection prior to installation of applicable meters however, there are times when a project is allowed to enter into a "Waiver, Release and Indemnity Agreement" which allow the applicant to bond the water system improvement and obtain building permit approval prior to issuance of water meter. Normally, building permits are not issued until the water meter service can be provided (i.e. the Certification of Completion" notice is granted by the DOW).

The Board of Water Supply, County of Kauai at their July 23, 2015 Board meeting moved to approve and forward Part 5 of the Rules, Facilities Reserve Charge, Proposed new Rule and Part 4, Section VII affecting the Proposed Rule to SBRRB. The Department of Water (DOW) submitted the Proposed Rule Amendments to the SBRRB for their review and was placed on SBRRB's September 16, 2015 Board meeting. At the SBRRB September 16, 2015 the SBRRB members unanimously agreed to support the proposal to proceed to public hearing asked that the Department engage key stakeholders due to the negative impact on small businesses, such as the Kauai Board of Realtors, Kauai Contractors Association, and Mr. Tom Shigemoto.

The Board of Water Supply, County of Kauai at their October 29, 2015 received the correspondence from the SBRRB regarding the outcome of SBRRB's September 16, 2015 meeting and the corresponding actions taken by the DOW.

Pursuant to DOW Rules and Regulations part I – Rules of Administrative practice & Procedure, Section VI – Procedure for Adoption, Amendment or Repeal of Rules, the DOW proceeded with the required Public Hearing which was held on November 10, 2015 at the Kauai County Council Chambers and received Public testimony both orally and written testimony.

### PUBLIC TESTIMONY AND DEPARTMENT RESPONSE:

The following is the Department's best attempt at summarizing the concerns and questions raised during the public hearing and by way of written testimony and providing an answer to each concern:

#### Are there any specific breaks in price for affordable housing?

No, there are no specific breaks in price for affordable housing. All residential, multi-family, and hotel units are calculated by multiplying the cost per gallon by the Water System Standards associated with each type of use. In order to help affordable housing, the Department has introduced the concept of receiving offsets for grant funds given to the Department for infrastructure.

It appears that the fees shift the burden of the cost to single family home developers in order to ease the burden of the costs for multi-family home developers and hotel and resort developers. How is this fair? The FRC charge for single family residential units and multi-family residential, hotel and resort units were based on the Level of Service required for that customer class as identified in the water system standards. The Water System Standards requires a max day demand of 750 gpd for single family homes and a max day demand of 525 gpd for multi-family and hotel and resort units. The Needs Assessment

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Study showed that the cost of source, storage and transmission facilities required to provide a gallon of water was \$18.82. The total FRC charge amount was calculated by multiplying the amount of gallons required per the standards by the dollar amount it costs to provide each gallon. Therefore there is no burden placed on single family developers as opposed to multi-family/hotel/resort developers, it is a function of having different use standards.

#### Why can't the costs be based on inflation?

The previous FRC only included the cost for construction of expanding the water system. It did not include the costs for land acquisition, planning, design and financing the system and, therefore, the FRC did not reflect the true cost of expanding the water system. If these costs are accounted for and the previous FRC is adjusted by the Engineering News Record, then, the resultant cost is similar to the proposed FRC. Simply using the inflation rate to escalate the cost would not include the excluded project costs and may not accurately track the construction bid climate.

# Upgrades to the water system benefit all users, why do only new users have to pay for something that all users benefit from?

Pursuant to Hawaii Revised Statutes 46-143, the FRC fee can only pay for expansion of the system, not system upgrades. An analysis of what portion of each project included in the Needs Assessment study was attributable solely to expansion and only those costs were used to calculate the fee. The FRC fee also, by law, has to include a credit for the amount that an applicant will subsequently contribute to the cost of existing improvements through user charges and other payments, and a credit for that amount.

### If a customer wants a bigger meter, would they have to pay the difference?

Yes, even under our current rules, if a customer wants a bigger meter, they would have to pay the difference.

# Does the Department keep a record of all of meters used for agricultural uses and how does the Department assess the fee for agricultural uses?

Yes, the Department keeps a record of meters that are used for agricultural purposes and meters that are receiving agricultural rates. The size of an agricultural meter is determined by an Applicant submitting to the Department water demand calculations. The Department, based on the submitted water demand calculations, determines the size of the meter required to adequately serve the property. The fee would be the cost associated with the meter size laid out in the new rules.

### The agricultural community is concerned about this fee as it relates to the proposed Food Safety Modernization Act, how does the Department intend to address that?

This is the first time that the Department has learned of the proposed Food Safety Modernization Act. The Manager will be meeting with Mr. Ornellas to discuss the agricultural communities concerns and how the Department can help address those. This is also a concern for the Department of Water since the Department has an underlying assumption that non-potable water is used for agricultural operations when at all possible.

#### What happened to the money generated when the Department last raised rates?

Money generated through rate increases mainly goes to the operation and maintenance of the system and improving the aging infrastructure. Revenues generated through the FRC charges can <u>only</u> be used, by law, to fund expansion projects and cannot be used to replace aging infrastructure.

Manager's Report 16-22 November 19, 2015 Page 5 of 7

# What other sources of funding does the Department seek for its CIP and how much does the Department receive for capital improvements?

The Department uses the water utility fund, the Build America Bonds, the State Revolving Funds loans, Facilities Reserve Charges, and grants to fund CIP. In terms of grants, the Department received a \$1.3M State grant as well as a \$2M SRF grant last year and got approved for a \$4.5M State grant this year (only \$450K has been released). However, most funds come with certain restrictions on use, and not all funds can be used on expansion related projects.

# What are the top priorities over the next two years and is there enough in the reserves to cover these without an increase?

The CIP project list is a living document. The top projects are at different phases of completion (i.e. design, land acquisition, etc.). The projects are prioritized by health and safety requirements, operational need, future development needs (via other county agencies such as the Housing Department, Planning Department, etc.), infrastructure deficient system where restrictions on water service exists, etc. There is currently \$879,986.00 in the FRC account.

The CIP project list is separate and apart from the FRC rate study. The projects listed in the rate study are projects required to provide the projected needed amount of water supply. The study then uses the projected costs of those projects to determine, on average, how much it costs to supply each additional gallon of water. The money that the Department anticipates collecting, if the fee increase goes into effect, will cover the costs required per gallon.

#### Did the Board consider phasing in the fees over the next two or three years?

Yes, phasing the fees in was considered but ultimately the Board and the Department decided against it for the following reasons: I) The artificially reduced FRC cost the first year would result in the Department not collecting enough to cover the expenses of providing the service; 2) In order to make up for the artificially reduced FRC fees, the Department, at the end of the proposed phasing would have to make up those lost costs by charging applicants I.5x the amount actually required to provide service. The Board and the Department felt it was unfair to make those needing a meter at a future date to pay more than required simply because they came in at a different time; 3) Under the law, the Board can only charge an amount that is reasonably related to the benefit that is received by the Applicant, nothing more, thus making a higher charge at the end of the phasing period illegal.

# How much outreach did the Department do and was the Department attempting to hide this rule change by calling it a Development Fee in prior meetings?

The Department held 7 community meetings during the month of January in 2013. The meetings were held in Kilauea, Kapa'a, Lihue, Koloa, Kalaheo, Hanapepe and Kekaha. At the time of these community meetings, the Facilities Reserve Charge was referred to as the "Water System Development Fee" or WSDF. At that time, the Department thought that "Water System Development Fee" was a more appropriate name to describe the Department's impact fee. It was not intended to cause any misunderstanding. However, to avoid further confusion, the name was changed back to "Facilities Reserve Charge" or FRC.

The Department made other outreach efforts (public service announcements, paid advertisements, letters to the public) to gather comments and input. As a result, the Department received about 160 written comments from the public. The Department also met with the Kauai Chamber of Commerce and the Kauai Board of Realtors in 2013, upon request to discuss the changes being considered at the time. The Department kept in touch with its 170+ stakeholders, and sent out courtesy letters prior to the recent November 10th Public Hearing.

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A Public Hearing is part of the process when the Department makes recommendations to the Board of Water regarding changes to the Rules and Regulations. Public comments are taken into consideration when Board members decide to vote for or against the recommended proposal.

#### Has the PUC reviewed this fee increase?

By law, the municipal water companies are not subject to PUC review.

# Why doesn't the Department revisit the practice of installing second meters to help with the rising costs?

The DOW is currently in the process of rescinding an administrative policy that did not allow the DOW to install service connection at a fixed cost for second water meter that would service an Additional Dwelling Unit (ADU). If the existing administrative policy is rescinded, the DOW will be allowed to install water meters for ADU's at the DOW fixed meter cost if certain conditions apply.

#### How come the percentage of increase in FRC fees varies by size of the meter?

The FRC for water meters large than 5/8-inch is calculated based on the ratio of meter capacity relative to a 5/8-inch meter capacity, as stated in the American Water Works Association (AWWA) Manual M22 – Sizing Water Service Lines and Meters.

The ratio of flow capacity for larger meter relative to the 5/8" water meter varies (as shown in the Needs Assessment Study, page 4-11) and therefore the percentage will also vary.

#### Is the fee to pay for the actual meter, or the right to put in the meter?

The applicant would not purchase a water meter, the water meter is the property of the DOW and DOW personnel would install the water meter into the water meter box. The FRC charge is the cost to provide water service to the meter.

# How come an individual who is connecting to an existing water line assessed the same amount as a brand new development which requires a new increased demand for water that is not already in existence?

The FRC amount is calculated on a per gallon basis and all users are charged based on the system standards related to their type of use; the cost per gallon never changes. The Department typically debt finances an expansion project so that infrastructure is in place when someone applies for a meter, i.e. a water line, tank, and well already exist. The FRC fee amount is the individual's proportionate share of the costs required to put the infrastructure in place to them.

# Are there state laws preventing the Department from using rate payers to contribute to expansion costs?

The Board can use rates paid by current customers to fund expansion requirements for new customers, however, the Board wanted to limit the amount of burden put on its current customers to fund new customers.

# Can the Board do a performance audit of the entire Department and use the information from the audit to assess its usefulness in justifying future rate increases and FRC increases?

The Board has previously discussed their desire to do a performance audit, however, the information from the performance audit will have no bearing on the FRC increase. By law, the FRC <u>cannot</u> include any costs related to operation and maintenance and can only include costs related to expansion.

# How does the section relating to offsets meet the duties and requirements of the Department as provided under the <u>Kauai Springs Inc.</u> ruling?

The offsets section of the rules is required pursuant to Hawaii Revised Statutes §46-141 et al. Offsets are related to when an applicant is required to build its own infrastructure to either meet an applicant's own

Manager's Report 16-22 November 19, 2015 Page 7 of 7

timeline or project needs. The Department would evaluate the request for domestic use in accordance with <u>Kauai Springs</u> and in light of the fact that it is one of the public trust purposes.

Is the new office building funded by the proposed increase in FRC rates? No, the new office building is not, and cannot be funded by the proposed increase in the FRC rates.

Can the Department go back to doing the "proportionate share refund" where, previously, the Department would refund a developer who installed a new transmission lines a dollar amount related to each new customer that came on line within five years?

The "proportionate share refund" process was an accounting nightmare in terms of determining how much each additional hook up had to pay in relation to where they were on the line and in terms of being a pass through entity for those transactions. Additionally, applicants would often wait until the time lapsed so that they wouldn't have to pay their proportionate share. The DOW finds that the offset provisions required by law are much more manageable.

### **OPTIONS:**

1. Approve the proposed changes and recommendations.

Pros: The Department can collect the actual costs of expanding the system from those that require system expansion.

Cons: The increase is substantial and adds to the growing costs of development.

2. Deny the proposed changes and recommendations.

Pros: There will be no increase of costs of development.

Cons: The Board will be faced with a decision of how to finance system expansion in the future. This will have to include, either, raising the rates of our current customers to finance system expansion for new customers or eventually placing a moratorium (or continuing a moratorium) on providing new meter service in all systems once they have reached system capacity, or a combination of both.

Respectfully submitted,

Edward Dor

Edward Doi Chief of Water Resources & Planning

CONCURRED:

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Kirk Saiki, P.E. Manager and Chief Engineer

ED/ein

Attachments: Part 4, 5, & 3 - FRC Rule Amendments (Board Adoption 11-19-15)

Mgrrp/November 2015/16-22/Discussion and Possible Action on Former Approved Rules for Part 5, FRC (11-19-15):ein

•1	REGULAR BOARD MEETING: Thursday, November 19, 2015
Boa	ard's Decision: 🖾 APPROVED - 🖵 DENIED - 🖵 DEFERRED
	Receive Information only Defer
Not	tations: Mr. Dahilig moved to approve the rule amendments as proposed by the Department on Manager's Report Net
16-2	22 – Board Discussion and Adoption of Department of Water Rule Amendments to:
Part	t 3, Establishing Standards for Subdivision Water Systems within the County of Kaua'i, Section III, Facilities Reserv
Cha	irge
Pari	t 4, Fixing Rates for the Furnishing of Water Service in the County of Kaua'i, Section I, General Use Rate
Parl	t 4, Fixing Rates for the Furnishing of Water Service in the County of Kaua'i, Section VII, Facilities Reserve Charge
Pari	t 5, Facilities Reserve Charge; seconded by Mr. Dill; with no objections, motion carried with 5 Ayes & 1 Nay (WR)
Boa	ard Members Present: Chair Sherman Shiraishi, Clyde Nakaya, Laurie Ho, Wallace Rezentes, Jr., Larry
	, Michael Dahilig
Boa	ard Members Absent & Excused:

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BE IT RESOLVED BY THE BOARD OF WATER SUPPLY OF THE COUNTY OF KAUA'I, STATE OF HAWAI'I

SECTION 1. This amendment to the Rules and Regulations of the County of Kauai Department of Water (hereafter "Rules") is made pursuant to Section 17.03D of the Kauai County Charter 2014, as amended, and Chapter 91, Haw. Rev. Stat. as amended.

SECTION 2. Summary of Rule Amendment.

The amendment to the Rules modifies the Department's facilities reserve charges. These charges were found in Section VII of Part 4, "FIXING RATES FOR THE FURNISHING OF WATER SERVICE IN THE COUNTY OF KAUA'I" AND in Section III of Part 3 "ESTABLISHING STANDARDS FOR SUBDIVISION WATER SYSTEMS WITHIN THE COUNTY OF KAUA'I" This new Part 5 will deal solely with Facilities Reserve Charges.

SECTION 3. Section VII "FACILITIES RESERVE CHARGE" ONLY Part 4 "FIXING RATES FOR THE FURNISHING OF WATER SERVICE IN THE COUNTY OF KAUA'I" of the Rules is hereby amended to delete Section VII and renumbers Part 4 to ten (10) sections.

#### "PART 4

#### FIXING RATES FOR THE FURNISHING OF WATER SERVICE IN THE COUNTY OF KAUA'I"

#### ISECTION VII - FACILITIES RESERVE CHARGE

- 1. The water system facilities reserve charge shall be assessed against all new developments and subdivisions requiring supply of water from the County of Kauai, Department of Water, and existing developments requiring additional supply of water from the Department's system. The facilities reserve charge must be paid before water services are made available to the new or existing development.
- 2. The water system facilities reserve charge shall be paid by all applicants for water service, including but not limited to the following:
  - a. All Hrrigation services and/or meters.
  - b. Additional buildings to be connected to existing services where additional demands or supplies are indicated. The charges shall be based on the meter sizes required if the buildings were metered separately.
  - c. Additional units connected to existing services and meters under the categories of single family and multi family residential units. The charges will be based on the established schedule of charges for the respective categories.

3. The water system facilities reserve charges shall apply to all applicants for water service as follows:

- a. For each parcel created by subdivision, including the first lot created; and for every new single family residential dwelling unit net yet metered and a facilities reserve charge has not yet been paid, the charge shall be \$4,600.00.
- b. For each unit or hotel room in a multi family residential development and/or resort development, which applies to each unit <u>or hotel room</u>, the charge shall be \$4,600.00.

For all other uses, the facilities reserve charge shall be determined by the Csize of the meter as follows:

Meter Size	Amount		
5/8"	\$	4,600,00	
3/12	ś	14,300.00	
<u>4"</u>	Ś	26,400.00	
-1 1/n	Ś		
-2"	Ś	90,700.00	
	Ś		
ⁿ	<u> </u>	283,400.00	
-6"	<u>\$</u>		
<u>-8</u> " .	š		

Meter sizes shall be determined by the Department and not by the Developer or Applicant. The facilities reserve charge for multi-family and/or resort development will be determined by the approved meter size or the number of units, whichever number is larger.

Facilities reserve charges are periodically adjusted by the Department. These adjustments may increase or decrease existing facilities reserve charge amounts. Where adjustments to facilities reserve charges result in decreases of such charges, no refund will be made of the difference between the higher, preexisting charges and the lower, adjusted charges.

4. FRC Offsets.

a.

Definitions and construction of words. As used in this paragraph 4, the fellowing definitions shall apply:

"Applicant" means any person, individual, corporation, partnership, business, organization, association, or other entity whatsoever that applies for water service from the Department.

"Consumer" has the meaning ascribed to it under Section I of Part 2 of the Department's Rules and Regulations.

"FRC" means the facilities reserve charges described in section VII of Part 4 and Section III of Part 3 of the Department's rules.

"Offset" means reduced or reduction.

"Subdivider" has the meaning ascribed to it under section 1 of Part 3 of the Department's Rules and Regulations.

"Subdivision" has the meaning ascribed to it under section I of Part 3 of the Department's Rules and Regulations.

"Water transmission main" or "main" means a main extension under Paragraph 2.d [2.a.(4)] of Section II of Part 2 of the Department's Rules and Regulations.

As used in this Paragraph 4, the following rules of construction shall apply:

Number. Words in the singular or plural number signify both the singular and plural number.

"Or", "and". Each of the terms "or" and "and", has the meaning of the other or of both.

b.

C-

When an applicant, consumer, or subdivider is required to construct and dedicate water source or water storage facilities, or water transmission mains, to the Department, the following rules shall apply.

Subject to the provisions of this paragraph 4, the applicable FRC liability of such applicants, consumers, or subdividers shall be offset by up to 33% each where water source or water storage improvements are constructed, and up to 50% where water transmission mains are constructed; provided that the total amount of all offsets that an applicant, consumer, or subdivider receives shall not exceed 100% of the applicant's, consumer's, or subdivider's FRC liability, and provided further that the offset for any source or storage improvement or transmission main shall not exceed the actual cost of the source or storage improvement or transmission main. The Department, and not the applicant, consumer, or subdivider's FRC offset in any given case. The Department may require the applicant, consumer, or subdivider's FRC offset in any given case. The Department may require the applicant, consumer, or subdivider verifying the actual cost of a source or storage improvement or transmission main applicant's, consumers, or subdivider's FRC offset in any given case. The Department may require

The offsets described in this Paragraph 4 "FRC Offsets" shall not apply to water transmission mains constructed by a subdivider, applicant or consumer which are within or adjacent to a subdivision or lands either 1) owned by the applicant or consumer, or 2) developed by the applicant or consumer for uses such as, but not limited to, residential, agricultural, commercial, resort, industrial, governmental, religious, or educational uses. Where water transmission mains are constructed within, adjacent to, or outside of such subdivisions or lands, the offsets shall apply only to mains constructed outside of and off site from such subdivisions or lands."]

#### SECTION VIII - OTHER CHARGES

- <u>Restoration of Water Service</u>. If a consumer's water service is turned off for failure to pay a bill, for violation of any of the provisions of these rules and regulations, or for other reasons, all outstanding accounts against said consumer plus the charge for reopening, reinstallation or reconnection must be paid before water service be restored. Said charges shall be as established by the Department.
- Fire Hydrant and Other Temporary Meters. In addition to regular meter service charge and water consumption charge, there shall be installation, removal, testing and user charges for all Fire Hydrant and other temporary meters as established by the Department.

#### 3. Pass Through of Private Charges.

a) As used in this Paragraph 3:

"Private charge" or "private charges" means charges, fees, assessments, exactions, and all other moneys a private water company may require the Department to pay to permit the Department to purchase water from the company. The terms include contribution-in-aid-of-construction charges that a company may assess against the Department.

"Private water company" or "company" means any department or agency of the federal government or the State of Hawaii, any private person, trust, association, corporation, partnership, or business, and any water utility regulated by the Hawaii Public Utilities Commission.

(b) Whenever the Department purchases water from a private water company for end use by any of the Department's consumers or prospective consumers and the company imposes private charges in excess of any similar

Department of Water, County of Kauai Part 5, Rules & Regulations for Facility Reserve Charge Page 3 of 12

charge or fee imposed under the Department's administrative rules, the Department shall require a consumer or prospective consumer to pay, in addition to the Department's charge or fee, the difference between the charge or fee imposed under the Department's rules and the similar private charge imposed by the company. If the private charge imposed is less than the similar charge or fee imposed under the Department's administrative rules, the consumer or prospective consumer shall not be entitled to the difference between the private charge imposed and the similar charge or fee imposed under the Department's rules.

Whenever the Department purchases water from a private water company for end use by any of the Department's consumers or prospective consumers and the company imposes private charges that are dissimilar to any charge or fee imposed under the Department's administrative rules, the Department shall require a consumer or prospective consumer to pay an amount equal to the dissimilar private charge imposed by the company."

#### SECTION IN INTERPORARY GRANTS OF WATER

- <u>Purpose.</u> The purpose of this section is to establish standards for temporary grants of water to support the initial development of county or state public beautification projects or the initial or further development of county or state public parks and public ways.
- Temporary Grants of Water. The Board of Water Supply may, in its discretion, authorize temporary grants of water to support the initial development of county or state public beautification projects or the initial or further development of county or state public parks and public ways.

Any county or state department, office, or agency wishing to receive such temporary grants of water shall apply to the Board of Water Supply for such temporary grants. The application shall explain or describe in detail the contemplated project, why a temporary grant of water from the Department is necessary, what other efforts the applicant has made to obtain water from other sources, for what specific purposes the water will be used, and how the water provided will yield public benefits. The applicant shall also certify that there were no other available sources which can be used to support the project in question.

For each application, the Board shall determine and establish a maximum time limit that water may be provided to an applicant and a quantity limit on the amount of water that may be drawn.

The Board and the Manager and Chief Engineer may prescribe conditions under which water may be drawn so that the provision of water to the applicant does not adversely affect the Department's ability to provide water to its other users.

#### SECTION IX - COST OF POWER ADJUSTMENT CLAUSE

All water consumption (for general use, agriculture use and ships) shall be subject to the imposition of a Cost of Power Adjustment as part of all water consumption charges.

The Department will review the actual unit costs of power for each twelve month period ending March 31st as part of the Department's annual budget review process. The power cost adjustment for the upcoming fiscal year will be calculated as the sum of the following two components:

 the difference (plus or minus) between budgeted unit power costs for the upcoming fiscal year and the projected unit power costs, and

2) the difference (plus or minus) between the actual unit power costs incurred during the twelve-month period ending March 31st as previously described and the projected unit power costs.

The sum of these two components, calculated on a dollar[s] per thousand gallons basis, will be applied to all water consumption.

Any power cost adjustments will be implemented on July 1st of each year.

#### SECTION XIII - LATE CHARGES

A late payment charge may be applied to any delinquent balance payable to the Department. The late payment charge shall be assessed at the rate of half a percent (0.5%) for each month or fraction thereof against the delinquent balance, beginning 30 days after the date of the bill.

For the purposes of this section, 'delinquent balance' includes any loan, fee, charge, or other liquidated sum which is 30 days past due to the Department, regardless of whether there is an outstanding judgment for that sum, and whether the sum has accrued through contract, subrogation, tort, operation of law, or administrative order.

SECTION 4. Part 5 "FACILITIES RESERVE CHARGE IN THE COUNTY OF KAUA'I" of the Rules is hereby created as follows:

#### <u>"Part 5</u> FACILITIES RESERVE CHARGE IN THE COUNTY OF KAUA'I"

#### SECTION I - GENERAL PROVISIONS

#### 1. Purpose and Authority

 <u>Capital water facilities expansion is needed in order to accommodate increased</u> demands on existing source, storage, and transmission pipeline capacity due to new development and/or additional demand of existing users. New development and/or additional demand shall be assessed a Facilities Reserve Charge in proportion to its impact and demand on capital water facilities. The Facilities Reserve Charge shall be expended for public capital water facilities projects. These rules were enacted pursuant to Hawaii Revised Statutes (H.R.S.) §46-141 ef seg.and other applicable State law.</u>

#### 2. Findings

a. In the review of the impact of growth relative to the existing and planned capital water system facilities capacity available to the water system, the Board hereby finds that the recent and anticipated population growth rates and corresponding water demands would place additional burdens on the existing water system. The Board further finds that such growth and increased demand would necessitate increased expenditures of public funds in order to create adequate facilities and to promote and protect the public health, safety, and welfare. The Board also finds that it is fair and reasonable to impose additional fees to accommodate such development. Finally, the Board finds that establishing benefit zones as identified in Hawaii Revised Statutes (H.R.S.) §46-14* is not necessary as a reasonable benefit can otherwise be derived.

 <u>b.</u> The following rules shall govern the assessment of impact fees for the Board of Water Supply. County of Kauai capital water facilities expansion. New development and/or additional demand shall be assessed impact fees in proportion to its demand on capital water facilities and the impact fees assess shall be expended for public capital water facilities projects. The Facilities Reserve Charge (FRC) was adopted in accordance with the report prepared by an independent consultant retained by the County of Kauai, Board of Water Supply (Board) to assess and study water facilities. The report calculated the proportionate costs associated with the water development needs as laid out in the Board approved Department facilities needs assessment study entitled "Water Plan 2020", as amended.

#### SECTION II - DEFINITIONS

"Affordable or Workforce Housing Project" shall mean any project confirmed or sponsored by the County Housing Agency as a residential development where the majority of housing lots, single family dwelling units, or multiple-family dwelling units are affordable housing or workforce housing as defined in Chapter 7A of the Kauai County Code 1987, as amended.

<u>"Applicant" means any person, individual, subdivider, corporation, partnership, business, organization, association, or other entity whatsoever that applies for water service from the Department.</u>

<u>"Consumer" has the meaning ascribed to it under Section I of Part 2 of the Department's Rules and Regulations.</u>

"Facilities Reserve Charge" (FRC) means the fee to be paid by an Applicant as their proportionate share in required improvements to capital water facilities.

"Grant Funds" shall mean a contribution, gift, or subsidy bestowed to the Board for specific water facilities improvement associated with a specific project that necessitates such water facilities improvements.

"Grantor" means the person or entity that makes a grant of funds.

"Offset" means a reduction in Facilities Reserve Charge designed to fairly reflect the value of non-site related capital water facilities improvements provided by an Applicant pursuant to Department of Water requirements.

"Recoupment" shall be defined as in H.R.S. 46-141, as amended, and refers to the proportionate share of the water facility capital improvement costs of excess capacity in existing water capital facilities where excess capacity has been provided in anticipation of the needs of development.

"Subdivider" has the meaning ascribed to it under section I of Part 3 of the Department's Rules and Regulations.

"Subdivision" has the meaning ascribed to it under section I of Part 3 of the Department's Rules and Regulations.

"Water transmission main" or "main" means a main extension under Paragraph 2.d [2.a.(4)] of Section II of Part 2 of the Department's Rules and Regulations.

Department of Water, County of Kauai Part 5, Rules & Regulations for Facility Reserve Charge Page 6 of 12

As used in this Section, the following rules of construction shall apply:

Number. Words in the singular or plural number signify both the singular and plural number.

"Or", "and". Each of the terms "or" and "and", has the meaning of the other or of both.

#### SECTION III - APPLICABILITY

- The Facilities Reserve Charge shall be assessed against all new developments
   and subdivisions requiring supply of water from the County of Kauai. Department of
   Water, and existing developments requiring new or additional supply of water from
   the Department's system. The Facilities Reserve Charge must be paid before water
   services are made available to the new or existing development.
- 2. The Facilities Reserve Charge shall be paid by all Applicants for new or additional water service, including but not limited to the following:
  - a. All irrigation services and/or meters.
  - b. Additional buildings to be connected to existing services where additional demands are indicated. The charges shall be based on the meter sizes required if the buildings were metered separately.
  - <u>c.</u> <u>Additional dwellings connected to existing services and meters under the</u> <u>categories of single family and multi-family residential units.</u> The charges will be <u>based on the established schedule of charges for the respective categories.</u>
  - d. Changes in service that require an increase in meter size.
  - e. Where an FRC was paid but a water meter was never installed to serve the subject property, the applicant shall pay the Facilities Reserve Charge in accordance with Part 5. Section IV (4) of these Rules.
- 3. The Facilities Reserve Charge shall apply to all Applicants for water service as follows:
  - a. For each parcel created by subdivision, including the first lot created; and for every new single family residential dwelling unit not yet metered and a Facilities Reserve Charge has not yet been paid, the applicable Facilities Reserve Charge shall be \$14,115.00.
  - b. <u>The Facilities Reserve Charge for multi-family and/or resort development will be the cost of the approved meter size or the cost of \$9,880,00 per unit or hotel room, whichever number is larger.</u>
  - c. For all other uses, the Facilities Reserve Charge shall be determined by the size of the meter, as shown below. Meter sizes shall be determined by the Department and not by the Developer or Applicant.

Meter Size		Amount	
5/8"		\$	14,115.00
3/4"		\$	21,170,00
<u>1"</u>		\$	35,290.00
1 1/2"		\$	70,580.00
<u>2</u> *		\$	112,920.00
3"		\$	225,840.00
<u>4"</u>		\$	352,880.00
<u>6"</u>		\$	705,750.00
8"	9 	\$	1,129,200.00

Facilities Reserve Charges are periodically adjusted by the Department. These adjustments may increase or decrease existing Facilities Reserve Charge amounts. Where adjustments to Facilities Reserve Charges result in decreases of such charges. no refund will be made of the difference between the higher, pre-existing charges and the lower, adjusted charges.

#### SECTION IV - COLLECTION AND REFUND OF FRC

- <u>Upon collection of the Facilities Reserve Charge, the Facilities Reserve Charge</u>
   <u>shall be deposited in a special trust fund or interest-bearing account. The portion</u>
   <u>that constitutes recoupment may be transferred to any appropriate fund.</u>
- 2. If the Facilities Reserve Charge is not expended or encumbered within six years from the date of collection, it shall be refunded to the property owner or the property owner's successor in title, together with accrued interest (if any).
  - a. An application for a refund shall be submitted to the Board within one year of the date upon which the refund right arises:
  - <u>b.</u> Amounts unclaimed within one year of the date the right to refund arises shall be retained in a special trust fund or interest bearing account and shall be expended for capital facilities improvement projects.
- 3. If the Board terminates the Facilities Reserve Charge (or analogous) requirement, all unexpended or unencumbered funds shall be refunded to the property owner or the property owner's successor in title, together with accrued interest (if any).
  - a. Public notices of termination and availability of refunds shall be given by the Board at least two times in a manner approved by the Board. All funds available for refund shall be retained for a period of one year and at the end of said one year period, any remaining funds may be transferred to the Board's general fund and expended for any public purposes involving water supply or service as determined by the Board.
- <u>4. No FRC refund shall be made for existing meters requiring a decrease in water</u> <u>demand, decrease in meter size, or decrease in existing water supply fixture units:</u> <u>or requests to change service categories.</u>
- 5. Recoupment shall be exempt from subsections (2) and (3),

Facilities Reserve Charge Paid Prior to Enactment of Part 5 Rules

Department of Water, County of Kauai Part 5, Rules & Regulations for Facility Reserve Charge Page 8 of 12

- a. This Section applies to those Applicants that have paid a Facilities Reserve Charge prior to enactment of these Part 5 Rules and have falled to install a water meter on the subject property for which the Facilities Reserve Charge was paid, hereinafter referred to as "Prior Applicants".
- b. Prior Applicants shall have three (3) years from the date of enactment of these Part 5 Rules, hereinafter referred to as the "Grace Period", to install a water meter, at no additional Facilities Reserve Charge cost.
- c. After expiration of the Grace Period, Prior Applicants must pay the difference of the original Facilities Reserve Charge paid and the Facilities Reserve Charge in effect at the time the meter is installed.
- <u>d.</u> <u>The Manager may grant exceptions to item 6c if the Manager finds all of the</u> <u>following:</u>
  - i. <u>Strict application of the rule would cause an absurd, unfair, or unreasonably</u> <u>harsh result; and</u>
  - ii. <u>The Prior Applicant's circumstance or condition is unique or exceptional and</u> the Manager would grant the same request if made by ever similarly situated <u>Prior Applicant; and</u>
  - iii. Such exception thereof is as reasonably necessary or expedient and not contrary to law or the intent and purposes of these rules.
- 7. Facilities Reserve Charge Paid After Enactment of Part 5 Rules
  - a. The Department may issue conditional approval for water service requests.
  - b. <u>A conditional approval shall be valid for a period of one year and shall expire unless</u> installation of the meter occurs within that period or an extension of the conditional approval is granted.
    - <u>i.</u> <u>An extension of the conditional approval may be granted for a single</u> additional one-year period.
  - <u>c.</u> Upon expiration, the conditional approval shall become null and void and the Applicant will be required to re-apply to the Department of Water for water service. Any request for water service will be dependent on the adequacy of the source, storage, and transmission facilities existing at that time.
  - <u>d.</u> <u>A Water Meter Application and FRC payment can only be made upon completing</u> <u>the requirements set forth in the conditional approval.</u>
- 8. Facilities Reserve Charges for Affordable and Work Force Facilities Housing Projects
  - a. The Manager may defer collection of Facility Reserve Charges for Alfordable or Workforce Housing Projects, provided, however that applicable Reserve Charges shall be collected before building permit approval or installation of applicable meters, whichever occurs first.

b. Administrative fees related to the Facility Reserve Charge shall be waived for Affordable or Workforce Housing Projects.

#### SECTION V - FRC OFFSETS

When an Applicant, is required to construct and dedicate water source or water storage facilities, or water transmission mains, to the Department, the following rules shall apply:

- The applicable FRC liability of such Applicant, shall be offset by up to 22% where water source improvements are constructed, up to 41% where water storage improvements are constructed, and up to 37% where water transmission mains are constructed: provided that the total amount of all offsets that an Applicant, receives shall not exceed 100% of the Applicant's, FRC liability.
  - a. An Applicant who provides 100% of the necessary source or storage or transmission requirements shall be entitled to an offset for the entire amount per category of source, storage, or transmission improvements as shown above.
- The Department, and not the Applicant, shall calculate and determine the total amount of an Applicant's, FRC offset in any given case. The Department may require the Applicant to submit documentation verifying the actual cost of a source or storage improvement or transmission main.
- 3. The offsets described in this Section V "FRC Offsets" shall not apply to water transmission mains constructed by an Applicant which are within or adjacent to a subdivision or lands either 1) owned by the Applicant, or 2) developed by the Applicant, Where water transmission mains are constructed within, adjacent to, or outside of such subdivisions or lands, the offsets shall apply only to mains constructed outside of and off-site from such subdivisions or lands,
- 4. Grant Funds. Grant funds, specifically allocated to projects by the Grantor, may be used by the Manager to offset the FRC assessed to said projects on a dollar for dollar basis as it relates to source development, storage development and/or transmission main development.
  - <u>a.</u> Applicants shall be offset by up to 22% where water source improvements are constructed; up to 41% where water storage improvements are constructed; and up to 37% where water transmission mains are constructed; provided that the total amount of all offsets that an Applicant receives shall not exceed 100% of the Applicant's FRC liability.
  - b. The Manager shall determine which improvements are eligible for FRC offsets.
  - c. FRC offsets shall be afforded only to those Applicants that are beneficiaries of the Grantor and identified as such at the time the Grant fund is made.
  - d. FRC offsets for Grant Funds shall be a one-time event.

#### SECTION VI - APPEAL OF FACILITIES RESERVE CHARGE

# Any person assessed a Facilities Reserve Charge under these rules may contest the amount of the Facilities Reserve Charge assessed by following the requirements in Part 1 of these Rules and Regulations.

SECTION 5. Section III "FACILITIES RESERVE CHARGE" ONLY of Part 3 "ESTABLISHING STANDARDS FOR SUBDIVISION WATER SYSTEMS WITHIN THE COUNTY OF KAUAI" of the Rules is hereby amended as follows:

#### "Part 3

#### RULES AND REGULATIONS FOR ESTABLISHING STANDARDS FOR SUBDIVISION WATER SYSTEMS

#### SECTION III - FACILITIES RESERVE CHARGE

- The subdivider shall pay to the Department the facilities reserve charge established in Part [4] 5 of the Rules and Regulations of the Department, for each (additional) parcel created by the subdivision, including the first lot, except (as provided below) when facilities reserve charges have already been paid by the developer or subdivider.
- 2. No facilities reserve charge will be made for lots created by the subdivision which will not be served by the Department's water system. In the event that the Department determines that the subdivision will not be serviced by the Department's water system, but later water service is requested, full payment of the then applicable facilities reserve charge must be paid. A statement to this effect shall be clearly lettered on the subdivision map.
- No facilities reserve charge will be made for any parcel which is already serviced by an existing meter or which was serviced by a meter within 365 days prior to formal submittal of the subdivision request to the Planning Department.
- 4. The subdivider shall pay the facilities reserve charge to the Department prior to subdivision approval by the Department except that subdivision approval may be given prior to construction of required improvements and the payment of the facilities reserve charge by the posting of a bond, as described in Section XIII of this Part.
- 5. In the event the facilities reserve charge has been paid for a subdivision and subsequently the subdivision is consolidated, the facilities reserve charge will be returned provided the consolidation is completed within 365 days following the prior subdivision approval.

SECTION 6. Administrative rule material to be repealed is bracketed. New material is underscored. Deleted material is stricken through. In printing this rule amendment, the brackets, bracketed material, underscoring, strikes need not be included.

SECTION 7. If any provision of this rule amendment or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the rule amendment, which can be given effect without the invalid provision, or application, and to this end the provisions of this rule amendment are severable.

SECTION 8. This rule amendment shall be effective ten (10) days after it is filed with the County Clerk of the County of Kaua'i.

Department of Water, County of Kauai Part 5, Rules & Regulations for Facility Reserve Charge Page 11 of 12

1.

#### BOARD OF WATER SUPPLY COUNTY OF KAUA'I

Sherman Shiraishi, Chairperson

APPROVED AS TO FORM AND LEGALITY:

Andrea Suzuki Deputy County Attorney Kirk Saiki, P.E.

DEPARTMENT OF WATER

COUNTY OF KAUAI

Manager & Chief Engineer

Received this _____ day of

2015

Jade Fountain-Tanigawa County Clerk, County of Kaua'i

#### CERTIFICATION

I hereby certify that the Board of Water Supply, County of Kauai, adopted the foregoing amendments to the Rules and Regulations of the County of Kauai Department of Water on Thursday, November 19, 2015 under authority of Sec. 17.03D of the Kauai County Charter 2014, as amended, and that the provisions of Sec. 91-3, Haw. Rev. Stat., as amended, have been satisfied, including the holding of (1) public hearing on Tuesday, November 10, 2015, and the giving of proper notice for the public hearing, which notice was advertised in The Garden Island on Friday, October 9, 2014 & Tuesday, November 10, 2015.

Dated at Lihue, Kauai this 19th day of November 2015.

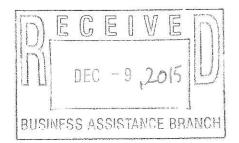
Laurie Ho, Secretary BOARD OF WATER SUPPLY

#### **CERTIFICATION OF COUNTY CLERK**

I hereby certify on ______, 2015, I accepted for filing from the Kauai Board of Water Supply the Amendment to the Rules and Regulations adopted on Thursday, November 19, 2015.

> Jade Fountain-Tanigawa, County Clerk County of Kaua`i

Department of Water, County of Kauai Part 5, Rules & Regulations for Facility Reserve Charge Page 12 of 12



# EXHIBIT B

KURT R. BOSSHARD ATTORNEY AT LAW 3144 ELUA STREET LIHUE, HAWAII 96766 TELEPHONE: 808-245-5302 FAX: 808-245-5302 FAX: 808-245-8929 EMALL: kboss@aloha.nef

October 8, 2015

15 OCT 12 A8:47

Kirk Saiki, P.E. Manager and Chief Engineer Department of Water P. O. Box 1706 Lihue, HI 96766

via EMAIL

DEP 1. OF WATER COUNTY OF KAUAI

RE: Proposed Amendments (FRC)

Dear Mr. Saiki;

Thank you for including me on your mailing list as to the Proposed Amendments (FRC).

I guess I have more of a question than a comment. My question pertains to section d of the Department's Notice of Public Hearing. d. <u>Establishment of Total FRC Offsets</u>

This section provides that a developer receives certain offsets for providing its own water system (or parts thereof). As to a developer providing its own source of water, let's say by drilling a well for a development in excess of twenty residences, how will the County of Kauai Department of Water enforce its responsibilities under the Public Trust Doctrine. How will the Department of Water make sure that the developer's proposal meets the public interest analysis required by the <u>County of Kauai vs.</u> <u>Kauai Springs</u> case? Has the Department of Water developed a written protocol for its supervision of the foregoing. Or, does the Department believe it can delegate meeting such concerns exclusively to the developer of such source?

This will undoubtedly arise as an issues as developers seek to make use of the credit. I believe that the Department should be prepared to address it.

Thank you for your response.

Sincerely, Kurt Bosshard

KB:rsnh

# Honorable Sherman Shiraishi Chairperson of Water Board Commission

One will question the process of which the rate increase on the Facilities Reserve Charge is being implemented. 15 NGT 23 A9:43

Informational meetings were held to inform the public of the FRC increases. However the public was informed by the Water Department that these informational meetings were the means to present information on so called' Development Fees' an Cholithe true intent of increasing the fees for the Facility Reserve Charge.

The question is whether the due process by the Water Department were all within the appropriate notice to the public towards the increase of the FRC fees or possible deception on behalf of the Water Department to disguise the increase of the FRC fees by giving another name (Development Fees).

Another question is; the recommended increase, where is the PUC? And what were the preventions from this being a PUC review.

The concern of the FRC increasing with no support services of installation by the Water Department need to be looked into. Why should the second meter of a property be penalized? Why the difference for installation between 1 or 2 or 3 meters to a property? For the amount that Water Department is asking on the new FRC increase, that fee should also cover installation of the meter regardless of the numbers to the same tmk parcel.

The tremendous increase will have a definite impact on 'Affordable Housing'. Just to give you an idea of the estimated upfront cost before the building of a single family home; septic system (\$15,000), solar system (\$6,000), engineering and survey plans \$3000, new FRC fee (\$14,000) and finally second home construction cost for meter installation (\$12,000) estimated total upfront cost before the blue print of a home is approved: \$51,000.

The Water Department need to be proactive to aid the public. The Department of Water should revisit the practice of installing the second or so meters. The Department should also include their engineering cost, I am of the belief that it would be less expensive than the private sector for installation of a second meter with all of the engineering drawings required.

Water is everyone's business, the present water rates should be revisited and considerations for possible increase should be seriously considered to help offset some of the new FRC charge.

Thank you for the opportunity to present this testimony to the Water Commission.

Jesse Fukushima

# Ignacio-Neumiller, Edith

From: Sent: To: Subject: Tamaoka, Kimberly Sunday, November 08, 2015 9:50 AM Ignacio-Neumiller, Edith FW: Water meter

Hi Edie,

Please see the below comments and forward to the Board. I believe this is in regards to the FRC public hearing.

Thanks, Kim

-----Original Message-----From: Margaret Abbene [mailto:tmabbene@yahoo.com] Sent: Saturday, November 07, 2015 9:55 AM To: Tamaoka, Kimberly Subject: Water meter

Aloha

As a Kalaheo resident who first hand experience the disturbing water pipe or pump break down this year, I support the needed increase. The water department has been Talking an talking about infer structure needs., for a very long time. Want some action I Please move forward the Island an community demand it.

Thank you Looking forward to results. Mr Mrs T Abbene POBox 309 Kalaheo 96741.

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# TESTIMONY TO THE KAUAI COUNTY BOARD OF WATER SUPPLY November 9, 2015

Good evening Chair and members of the Kauai County Board of Water Supply,

For the record, my name is Tom Shigemoto and I am here tonight as an employee of a residential development company, a member of the Chamber of Commerce, a member of a non-profit affordable housing corporation, and a father.

Perhaps in your minds the 307% increase is justifiable, but I do appreciate the opportunity to provide some comments and to register my opposition to such a huge incremental increase.

I sent comments to the State's Small Business Regulatory Review Board about a month or so ago, which I believe the Department has in their possession and which I wish to reference and include as part of my testimony this evening. Since time is limited, I am focusing primarily on the proposed FRC increases.

- 1. I hope it is clear to you board members on what the Department's fiscal and financial situation is before imposing the increase. If not, I believe this is or should be a bigger part of determining the need and the amount of the FRC. When the water rates were increased in 2001, the stated purpose was to improve the aging infrastructure. What happened to those revenues?
- 2. What other sources of funding does the Department seek for its CIP? How much in state and federal grants does the Department receive for these capital improvements?
- 3. What are the top three five priorities over the next two years and is there enough in the reserves to cover these without an increase?
- 4. Will the money you anticipate collecting cover these project costs? If not, what will happen to these priorities?

My questions and comments come from my regard to the impacts which the increase will have on the development of affordable and primary housing for those who need them. My company is in the real estate development and anything that drives up the cost of construction will ultimately be passed on. If these costs escalate to the point where prices are beyond what the market can bear, we may choose not to develop, which in turn affects contractors, vendors, suppliers and other businesses that rely on this sector of the economy to survive. Of course, such costs will also have a huge impact on the ability of young families who need or want homes to qualify for loans. Most of us sitting in this room today are fortunate to own our own homes. But many people who are not here tonight aren't as fortunate. It is an often discussed subject but there seems to be a huge disconnect between agencies of the County when it comes to assist in the production of homes via reductions in the laws, regulations, codes and

fees being assessed for housing developments. What I'm referring to are the laws requiring solar water heating, insulation, these water charges, a potential fire sprinkler regulation, in-lieu housing fees, inlieu education fees, EIA fees, Park/Playground fees, etc. Add these costs to the escalating construction, labor and material costs you begin to realize what it will cost a new homeowner.

Subject to your review of the financial state of the DOW, if it is your conclusion that there is a need to increase the FRC, then consider what can be accomplished in the next two to three years and perhaps structure FRC increases accordingly on an incremental basis that would be perhaps more palatable to developers and new homeowners. Thank you.

2



P. O. Box 178 Eleele, Hawaii 96705 www.abprop.com Tel (808) 335-2749 Fax (808) 335-9708

September 15, 2015

Department of Commerce and Consumer Affairs Small Business Regulatory Review Board State of Hawaii

Dear Mr. Borge,

My name is Tom Shigemoto, Vice President of A&B Properties, Inc., Kauai. I am writing you to clarify some of the misconceptions and/or misrepresentations presented in the Kauai Department of Water's justification for its proposed rule amendments on the Facilities Reserve Charge (FRC).

Item 1. i. – Modification of FRC. DOW states, "Small businesses that are focused on land development will be impacted by the proposed rule. All new customers of the Department will bear the cost of the FRC..." Why do only new customers have to bear the brunt of the costs to upgrade the Department's failing water system. If improvements are necessary for a neighborhood, district or region, shouldn't all properties which stand to benefit from such improvements pay? When FRC funds are collected for new developments or from new customers irrespective of whether water improvements are installed, is there a methodology to ensure the money collected is used to improve the system in that area? Perhaps the DOW should explore community facilities districts to make assessments more equitable.

Page 2, Item 1. iii. – Modification of FRC Offset. The proposed rule change reduces the percentages of the offset for water source improvements, but increases the offsets for storage and transmission facilities. The current offsets are the same 33% each for source, storage and transmission. No detailed explanation is provided for the changes. Furthermore, source development is probably the costliest of the three. For anyone who is required to provide source, storage and/or transmission the offset should be guided by the rule below. The offsets should be 100 % and not a fraction of what it cost the developer/landowner put in for the benefit of not only his development but for others that are serviced by the improvements that are built.

Page 3, Item 1. iv. – Establishment of Total FRC Offsets. - This rule change is fair for any developer/landowner/small business owner to be able to get 100% back in the form of the FRC amounts.

Page 5, Item 2. c. i. – Modification of Facilities Reserve Charges. – The DOW uses A&B's Kukui'ula Development Company's project in south Kauai as an example of how it determined a FRC of \$17,300 per unit. What the Department doesn't mention is that the development chose to purposely keep densities well below levels of densities that could be built there. Yes at 1500 units, the FRC costs per unit is approximately \$17,000. But, if the project developed to it's full density potential of approximately 4000 units, the per unit FRC cost would amount to \$6500. Therefore, using the Kukui'ula Development to justify or rationalize a \$14,000 increase is misleading.

Finally, Page 8, item No. 7 of Exhibit 6, my name is mentioned as one of several members of the business community that provided input for the subject rule change. As best as I can recall the DOW did not meet individually or collectively with whom I will call large land owners/developers to discuss the ramifications of the proposed rule change. I know I attended a public informational meeting where the proposed changes were explained and the justification for the amendments about three years ago. At that time, as I recall, the increase was from \$4600 to \$17,000. The proposed increase is down to \$14,115,a 307% increase over the current FRC. I remember mentioning that I understand that the FRC could and should be increased but perhaps doing it in increments over several years would be more palatable

instead of the large increase. I also did express my opposition to such a huge increase as it will have a tremendous impact to all small businesses and consumers.

After the string of informational meetings I did not hear anything else about the increase nor was I a part of any meeting to discuss the matter. The Water Board may have held public hearings on the subject so I may have missed that opportunity to express my opposition to the increases.

As the DOW mentions in item 7, "The most prominent small businesses that will bear the direct impact of the changes in the FRC fee schedule will be land developers, more particularly those that deal with development of housing." I don't consider my company a small business but as a real estate development company, A&B Properties, Inc. does develop not only primary housing but affordable housing as well. In a situation where excess costs are levied on our projects, they will be passed on our consumers. This is the bigger impact of increasing the FRC, not only for people wishing to own their own homes and not being able to qualify, but for all consumers retail and wholesale who have to assume the costly increases. Units which have to be priced out of the market demand will force developers to reduce or even abandon projects, causing a trickling effect of secondary impacts to design consultants and construction workers reducing their purchasing power, which will affect wholesale and retail businesses on this island. We need an adequate supply of clean, safe, water resources. We understand the need to increase water rates and FRC charges. All we ask for is that increases are done with the consideration of the impacts such rate and charges will have on our very fragile island economy. Thank you.

# **CONTRACTORS ASSOCIATION OF KAUA'I**

4231 Ahukini Road • Lihu'e, Kaua'i, Hawai'i 96766 Phone: (808) 246-2662 • Fax: (808) 246-8642 15 NOV 10 P1:18 A

ASSOCIATION

OF KAUA'I

November 10, 2015

#### DEPT. OF WATER COUNTY OF KAUAI

Testimony from the Contractors Association of Kaua'i (CAK): Department of Water Facilities Reserve Charge Increase

Chair Shiraishi and Members of the Board of Water Supply, I am Lanell Miyamoto, President of the hundred member Contractors Association of Kaua'i (CAK). We are presenting this written testimony on behalf of the Board of Directors.

The CAK Board understands the need to increase the Facilities Reserve Charge (FRC), but we have grave concerns about a 307% increase, all at once, and the impact it will have on this community. CAK believes the segments of the community that will be negatively impacted by the proposed increase of FRC will be private affordable housing projects and working families. While statements from the Department of Water in public forums have noted that this increase is "only 2% of the median cost of a home on Kaua'i," there are those trying to buy or build homes way below the median price and the proposed \$14,115 can very well be the deal breaker on whether they can qualify for a loan to build or a mortgage to buy.

CAK would like to respectfully ask the Board of Water Supply to help this income gap group, if legally possible, so these families like you as Board members and Department of Water staff can realize the dream of home ownership.

The Contractors Association of Kaua'i would like to also encourage the Board of Water Supply and the manager to begin discussions, if it is not already ongoing, with your counterparts across the state to think of ways to address a growing problem that will not go away. If there are state laws that are prohibiting other revenue sources for the Department or even rate payers from contributing to, perhaps that discussion should take place with other Water Departments and Legislators to amend state law(s). The Department of Water cannot continue to use antiquated laws to address current and future needs of your constituents. The Department of Water is a monopoly and provides a service everyone needs. There needs to be a plan and system to provide that commodity and up-grade or build the needed infrastructure in the most cost efficient manner possible, for today and tomorrow. Along those lines, any County ordinances or charter issues relating to the Department of Water should also be reviewed and updated.



Testimony from the Contractors Association of Kaua'i (CAK) Page 2 November 10, 2015

The CAK Board would like to strongly recommend that the Board of Water Supply appropriate funds and set a pre-determined date by which a Performance Audit must be done of the <u>entire</u> Department of Water. The results needs to be made transparent to the public; the Board and manager needs to use that information to better the department and services it provides and we hope that information will be useful in justifying future rate increases and FRC increases.

CAK is asking for a Performance Audit because the level of service for permitting is not acceptable. The Department of Water has a long history of serious lag time from when building plans are submitted and when permits are finally issued.

Finally, we hope the Board of Water Supply will look seriously at other means to justify increases, for example: by using inflation indexes. We believe you have some board members who have skills set to help you make those kinds of policy decisions and not continue to "kick the can down the road" and then pop a 307% increase, like for FRC's.

Thank you very much for allowing the Contractors Association of Kaua'i and its Board of Directors to provide these comments and testimony.

#### Ignacio-Neumiller, Edith

From: Sent: To: Subject: Ed Young <ibisyoung@gmail.com> Tuesday, November 10, 2015 8:53 AM Ignacio-Neumiller, Edith Public comment for proposed new meter fee increases

To: the Kauai County Water Authority.

From: Edward S McVeagh (ibisyoung@gmail.com)

The following is my public comment related to the current proposal of an approximate 300% increase in new meter fees for new single family residents.

Members of the board.

In principle, I feel that the proposed 300% or greater increase for a new single family water meter would significantly increase the cost burden associated with the development of affordable housing here on Kauai. The cost structure proposed appears to penalize individuals like myself who are in the planning phase of building an affordable home on the island. From the preliminary information obtained in relation to this increase, it appears that individuals and families building single family units will absorb the majority of these cost whereas developers will carry significantly less of the cost burden per unit through the proposed prorated cost reduction offered to them for utilizing multi-unit meters. My home development plan focuses on a small sustainable farm incorporated within the grounds of my single family homestead. There is year round irrigation to the site from a creek that flows through a corner of the property boundary. My plan incorporates irrigating the crops on the property from this natural supply and supplying potable water to the home from the county supply. My concern is that I initially budgeted \$5,500 for meter fees associated with the potable water supply. The 300% increase may require that I seek an alternative source for potable water for my home. I understand that cost do rise related to inflation and other factors. Wouldn't it make more sense to base the new meter cost on national inflation rate since the last adjustment? Upgrades to municipal potable water supply systems benefit all users, not just those individuals tying in to the system for the first time. I feel that it would be more equitable if all users share in these improvement cost as an alternative to new single family homeowners absorbing the majority of the burden. Thank you for the opportunity to provide comment.

Edward McVeagh

## Ignacio-Neumiller, Edith

From:	June Araki <junearaki@gmail.com></junearaki@gmail.com>
Sent:	Tuesday, November 10, 2015 3:44 PM
То:	Ignacio-Neumiller, Edith
Subject: Facilities Reserve Charge Public Hearin	
Attachments:	facilities charge testimony 11-10-2015.pdf

Hi, Edith,

Thank you very much for sending me the agenda for the Department of Water meetings over the past months. I really appreciate it.

I'd like to submit my questions and opinions for the proposed public hearing today. I feel that the public has not been given a chance to learn more about this because we were not informed that the community input meetings under the guise of "development fee" was actually an opportunity to find out more about the Facilities Reserve Charge.

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Mahalo nui loa, June Public Hearing - Facilities Reserve Charge November 10, 2015

- 1) How do you justify a 300% increase in the Facilities Reserve Charge? Have they considered stepped up fees instead? Why is the individual, who is connecting to an <u>existing</u> water line, assessed the same amount as a brand new development (subdivision or project with many owners) which requires a new increased demand for water that is not already in existence? Have other avenues been pursued to raise the needed funds that the Department of Water is trying to generate? Is the Department of Water receptive to giving people a choice of having the Department of Water Install the water meter again or having them hire private companies? The cost is prohibitively expensive with private companies which increases the cost to build for our local families. It makes more sense for the County to benefit from the increased cost instead of homeowners paying such exorbitant charges to outside vendors where prices differ considerably.
- Affordable houses do not stay affordable forever so they should <u>not</u> have the benefit of a lower fee.

In order to qualify as affordable, I realize that they need to keep the fees low, but it should not be at the expense of other people who have to pay the full proposed Facilities Reserve Charge. If the unit stays affordable, sold to another "qualifying affordable" family, than no adjustment is necessary, but if it is sold on the open market to the general public, I feel that they should have to pay the same fee that is being assessed others who are seeking a new water meter (no waiver of administrative fees). This ensures that there will always be affordable housing. It will also ensure that all affected parties pay their fair share. The balance of the Facilities Reserve Charge should be added upon sale to any "non-qualifying affordable" family.

3) I know there were past community meetings about Development Fees, when in reality it was for the Facilities Reserve Charge. I feel it was unfair of the Department of Water to not have been upfront with the general public. I feel that there would have been a better attendance if it was known that the Facilities Reserve Charge was being discussed. Have you really had adequate input from the public? This public hearing seems to be just a formality as I heard that this issue is already slated for a vote at the next meeting.

I look forward to hearing from you in regard to my questions.

Sincerely,

June araki

June Araki junearaki@gmail.com

## Ignacio-Neumiller, Edith

From: Sent: To: Subject: shelley1@hawaii.rr.com Tuesday, November 10, 2015 3:43 PM Ignacio-Neumiller, Edith Testimony - Facilities Reserve Charge Increase

On behalf of my children, grandchildren and other future generations of local families, I object to the 300% increase in the facilities reserve charge. Local families are already having difficulty keeping up with the cost of Kauai living. This will be another factor in deterring local home ownership.

Please consider a more reasonable increase. Mahalo. Shelley Teraoka

# EXHIBIT B

#### PUBLIC HEARING MEETING MINUTES BOARD OF WATER SUPPLY Tuesday, November 10, 2015

The Board of Water Supply, County of Kaua'i, met in Public Hearing at the Kaua'i County Council Chambers in Līhu'e on Tuesday, November 10, 2015. Chairperson, Sherman Shiraishi called the meeting to order at 5:00 p.m. On roll call, the following answered present:

BOARD:

Mr. Sherman Shiraishi, *Chairperson* Mr. Clyde Nakaya, *Vice Chair* Ms. Laurie Ho Mr. Michael Dahilig Mr. Wallace Rezentes, Jr.

ABSENT/EXCUSED: Mr. Larry Dill

Quorum was achieved with 5 members present at the time of roll call.

STAFF:

Mr. Kirk Saiki Mr. Keith Aoki Mr. Eddie Doi Ms. Marites Yano Ms. Regina Flores Mr. Dustin Moises Ms. Peggy Yoshioka Ms. Kim Tamaoka Ms. Jonell Kaohelaulii Ms. Sandi Nadatani-Mendez Ms. Mj Akuna Deputy County Attorney Andrea Suzuki

GUESTS

Mr. Ken Taylor Mr. Bill Bow Mr. Jerry Ornellas Mr. Elliott T. Yamamoto *Mr. Tom Shigemoto Ms. Nancy Kanna Mr. Bryan Davidson Mr. Robert Smith *Ms. June Araki Ms. Rachel Spain Mr. Sinclair Salas-Ferguson *Mr. Jesse Fukushima Mr. Gary Siracuse Mr. Matt Bernabe Deputy County Attorney, Teresa Tumbaga *Testimonies are attached at the end of these minutes

Chair Shiraishi read the following at the start of the public hearing: "A public hearing will be held today, Tuesday, November 10, 2015 regarding Proposed Amendments to the Rules and Regulations of the Board of Water Supply, County of Kaua'i, State of Hawai'i. The Department of Water is recommending the deletion of Part 4, Section VII (detailing the Facilities Reserve Charge) and the creation of a new Part 5 to be added to the Board of Water's Rules and Regulations. This new Part 5 will deal solely with Facilities Reserve Charge. Copies of the proposed rules are available at the Department's website at www.kauaiwater.org."

The Secretary read the following:

#### PART 5 – FACILITIES RESERVE CHARGE

#### a. Modification of Facilities Reserve Charge (FRC)

The proposed rule modifies the charges that apply to all new developments and subdivisions requiring water supply, and to existing developments requiring new or additional water supply from the DOW. The proposed FRC for the typical residential 5/8-inch water meter is increased by approximately 300%, from \$4,600 to \$14,115. For larger meters, from ³/₄-inch to 8-inch, the fee increase declines progressively from 48% to 24%. The proposed FRC for single family, multi-family and resort is also modified based on Hawai'i's Water System Standards.

#### b. Establishment of Time Period to Install Water Meter

The proposed rule change also applies to applicants who have paid the FRC fee prior to the enactment of these new rules, but have <u>not vet</u> installed their water meter. The new rule would allow these "prior applicants" to install their meter within three (3) years following the enactment of the new rules, at no additional FRC charge. If a prior applicant's water meter is not installed after three (3) years, the prior applicant will be required to pay the difference between the FRC they paid and the FRC in effect at the time their meter is installed.

#### c. <u>Modification of FRC Offset</u>

Another proposed change modifies the percentage of FRC offsets that are applicable for specific source, storage or off-site transmission facilities constructed by developers. The proposed rule change modifies the FRC offset percentages up to 22% where water source improvements are constructed, up to 41% where water storage improvements are constructed, and up to 37% where off-site transmission facilities are constructed.

#### d. Establishment of Total FRC Offsets

The proposed rule change also allows an applicant who is required to provide 100% of the source or storage or off-site transmission facilities, to receive the total FRC offset for the entire FRC liability amount per category of source or storage or offsite transmission improvements.

#### e. Establishment of Grant Funds Offset

The proposed rule change allows an applicant to use a project's Grant Funds to offset the project's FRC liability associated with development. Grant Fund offsets can only apply to the identified grant beneficiaries.

f. The proposed rule change deletes Part 4, Section VII in its entirety and applicable portions of Part 4, Section VII relating to the FRC have been included in Part 5.

g. Also included in the proposed rule change are requirements mandated by Hawaii Revised Statute §46-141 to §46-148.

"Board will follow the following procedure as laid out in the Department of Water, County of Kaua'i Rules and Regulations in holding this public hearing for rule making."

- 1. First, there will be a presentation by Department on its findings related to the Proposed Amendment to the Rules and Regulations of the Board of Water supply, Section IV and V, as they relate to the Facilities Reserve Charge.
- 2. Department will then answer any questions Board may have regarding Department's presentation.
- 3. Board will then take public testimony.

If you wish to testify, please fill out the request to testify signature list. Anyone testifying is entitled to the floor only when recognized by the Chair. The presiding officer shall then grant to persons who have not registered time to speak following the registered speakers.

Regarding your testimony:

- Please state your name, address, and organization you're representing and if you are registered lobbyist.
- Please limit your comments to subject matter of today's public hearing.
- Anyone testifying shall refrain from direct questioning of the Board and shall direct any remarks or questions to the Chair.
- Anyone speaking may be subsequently subject to questioning by the Board. Questions by the Board shall be permitted only at the discretion of the Chair.

#### 4. Regarding Public Testimony

#### a. Three minute rule:

Please limit your initial testimony to three minutes. This will give everyone who wants to say something an opportunity to testify. If you don't complete your testimony within three minutes, you will be given another opportunity to complete what you want to say after everyone has had a chance to testify.

b. The Board shall not be bound by technical rules of evidence.

The Chairperson read the following. "The public hearing is now open. The purpose of this hearing is for the Board of Water Supply to hear testimony on the Proposed Amendments to Parts IV and V of the Rules and Regulations of the Board of Water Supply, County of Kaua'i dealing with Facilities Reserve Charges.

**The Chairperson asked the Department** to make its presentation on its findings, and allow questions of Staff Findings by the Board.

Chief of Water Resources and Planning, Mr. Eddie Doi introduced Manager and Chief Engineering, Mr. Kirk Saiki and consultant, Mr. Andy Baker. The proposed rule amendment is related to the Facility Reserve Charge (FRC). Mr. Doi gave an PowerPoint overview of the FRC, Impact Fees, Needs Assessment Study, Proposed Rule Amendments, and how the Department and the Board will proceed going forward.

Mr. Andy Baker of Hawksley Consulting, Inc. a professional Utility Finance Consultant was the prime person working on the study from start to finish. He presented the Needs Assessment Study and FRC Update, Study Update Methodology.

Chief of Water Resources and Planning, Mr. Doi explained "What Happens after today's Public Hearing?" After the public hearing, the Board could decide to adopt new rules. If the new rules are adopted they will be filed with the County Clerk; these new rules would take in effect 10 days after filing. Or the Board could review the comments provided at the November 19th Regular Board meeting, the Board could review the rules, then send it back to the Department to make changes. The Department would work on the changes and proceed with the process again. If at the November 19th Board meeting, the Board approves the rules, the new rules would be filed with the County Clerk and the new rules would take effect 10 days after filing.

#### **DISCUSSION:**

Mr. Dahilig asked Deputy County Attorney, Andrea Suzuki to repeat HRS §46-143 as it related to how the fees are proportioned to the actual development and what the state could require for the Department.

Deputy County Attorney, Andrea Suzuki explained a Needs Assessment Study would be released and pass the methodology which Mr. Baker previously explained.

- Be a prorata amount of the benefit that the payor could incur; cannot be more than that but not less than prorate amount.
- Identify deficiencies in public facilities other than the impact fees those deficiencies that would be eliminated in a reasonable amount of time. Additional anticipated demand fees are placed on an unspecified facilities by the development.
- Give credit that the payor's will pay in their rate fees over the next 20 years, per HRS.
- Take into account what a developer contributed in the previous (5) years.
- Other parts of HRS that do not apply to HRS §46-143 are offsets which were discussed and will reflect the actual proportionate share for each section of the facility.
- The Board approved the finding of no Benefit Zones in 2013 required under HRS which Mr. Baker covered.

Mr. Dahilig clarified for the public that the Board accepted a study at a public meeting that concurred with the methodology used by the consultant to determine and meet the needs, pursuant to HRS §46-143 on the breakdown by proportionate share. This information is in the preamble to the rules presented before the Board. It is also in the Needs Assessment Study and in the HRS requirements which were incorporated into the Needs Assessment Study by Mr. Baker.

How to get the per gallon cost is based on the assumption on the growth projection and the plan of what projects would meet the growth projection.

Mr. Dahilig have an example if a person were to build a house that was restricted based on the one of the three (3) elements, he could not do that now. Deputy County Attorney, Andrea Suzuki clarified that if a person is in a meter restricted zone, you could not get water from this Department of Water.

To accommodate more housing growth, Mr. Dahilig mentioned the system needs to be expanded which is the purpose behind what is not to pay back debt. Deputy County Attorney, Andrea Suzuki added under the law, FRC can only pay for expansion costs; FRC cannot pay for operation or maintenance. If a person goes to a system where a meter can be added, FRC will go back to pay back the cost which costs the Department to build the system that allowed you to come on that system.

After the report and questions the Chairperson read the following: "If you are testifying, please state your name, address, organization, and if you area registered lobbyist."

#### Mr. Ken Taylor, private citizen from Kapa'a provided his testimony.

Mr. Taylor agreed with the Department's proposal and said for the most part it is good. He referred to a couple of items:

1) Under the <u>Establishment of Time Period to Install Water Meter</u>, the three (3) years following enactment, he felt it should be one (1) year; after one (1) year, give money back. He understood that there are some people who ask for meters and can't get them. To tie up a

Public Hearing Meeting: Tuesday, November 10, 2015 - Page 4 of 7

meter is not fair which need to be looked at. Mr. Taylor did not know the new fee structure and if the Department would continue to deny individual water meters. Under the new fee structure, he asked if it is tied into available water supply but to raise fees?

- 2) Affordable housing The affordable housing built by Līhu'e Industrial Park for Kaua'i Lagoons was not sold until after two (2) years ended up being changed to market rate. If people can get a special deal to get meters under affordable housing and gets changed to market rate, what is the mechanism to increase water meter fees?
- 3) Workforce housing An example was given if Mr. Taylor was a local boy and his family gives him a house, would he pay \$14,000 for the meter? Or would he get a workforce housing brake?
- 4) If Mr. Taylor had a current 5/8-inch meter with a \$14,000 meter value and if he wants to change to a 1- inch meter, would he pay the difference between the \$14,000 and the \$4,600 fee?

Chair Shiraishi requested Mr. Taylor to submit his testimony in writing to the Board. His concerns would will be addressed.

#### Mr. Gerry Ornellas from Kapa'a, Kaua'i Farm Bureau provided his testimony.

Mr. Ornellas mentioned there are 300 members of the Kaua'i Farm Bureau who are alarmed on the proposed changes. A Food Safety Modernization Act (FSMA) will be enacted soon which is an unfunded mandate from the Federal government. The FSMA would require:

1) A Stepped up post-harvest treatments of fruits and vegetables - Most farmers are not on non-potable systems. This law will require farmers to hook up to non-potable systems.

2) Growing protocols with leafy vegetables will no longer have growth with irrigation water that is not chlorinated. This would require additional high standards and demands on the potable water systems. There are some provisions for small farms driven by Safeway and Foodland for people who purchase vegetables.

Mr. Ornellas has not heard anything about agriculture only about single family dwellings and resort entities. He asked if the Department had a record of ag that have a meter. What happens then? Manager Saiki will be meeting with Mr. Ornellas soon regarding his concerns.

## Mr. Tom Shigemoto from Līhu'e, employed at a residential development company provided his testimony. (Refer to written testimony attached.)

Mr. Dahilig will look into the Feasibility Study whether there should be priorities for the fees. During the Board's deliberations on the fee study amounts, they would see if it is disagreeable to potential projects in the future based on priorities or non-priorities. Mr. Shigemoto would review at the Water Rate Study.

> Ms. Nancy Kanna from Hanapēpē, Government Affairs Advocate for Kauai Board of Realtors, Registered Lobbyist provided her testimony.

Ms. Kanna commented that the Kaua'i Board of Realtors (KBR) are a membership of 552 professional realtor affiliates understands the rising cost of the DOW is facing. Their concern is the

Public Hearing Meeting: Tuesday, November 10, 2015 - Page 5 of 7

lack of concern for affordable housing projects relating to the steep cost of the FRC. The KBR would like an FRC for the 5/8-inch meter reduced by 50% for affordable housing projects.

Ms. Kanna needs to review the Water Rate Study regarding the expansion relating to the KBR concerns.

#### Mr. Robert Smith from Kapa'a, private citizen provided his testimony.

Mr. Smith is running permits through the process for three people for additional dwelling units. Permits are stuck in the Planning Department. He would like to pay for the permits which Planning won't accept.

#### Mr. Jesse Fukushima from Kapa'a, private citizen provided his testimony. (Refer to attached written testimony.)

Mr. Dahilig added what the Board is required to do under HRS §46-143. When looking at different types of affordability on how the proportional share is calculated, he noted the elements of affordability cannot be considered as part of the proportional share calculations under the state law.

#### Mr. Matthew Bernabe from Kapa'a, private citizen provided his testimony.

Mr. Bernabe was not familiar with the Public Hearing matter but was curious on the increase of 48% to 24% but did not know the monetary correlation of the calculations. The 5/8-inch to 1-inch had different rates and the ³/₄-inch to 8-inch meter had fluctuating ratios. He asked if the \$14,115 fee is a person's right to put in a meter or do you have to purchase a meter? Mr. Bernabe said it sounded like the Department is taking a pro-active step in having individuals connect to the system instead of people being on their own in finding a source.

Chair Shiraishi encouraged Mr. Bernabe to speak to the DOW staff if he had more questions.

Deputy County Attorney, Andrea Suzuki and Private Secretary, Ms. Mj Akuna read written testimonies that were received before the deadline from Ms. June Araki, Ms. Shelly Teraoka, Mr. Edward McVeagh, Mr. & Mrs. T. Abbene, Ms. Lanell Miyamoto (Contractor's Association of Kaua'i), and Mr. Kurt Bossard.

Chair Shiraishi asked if there anyone wanted to give public testimony or submit written testimony?

#### Mr. Tom Shigemoto added a question to his testimony.

Mr. Shigemoto asked what happens after the public hearing? Chair Shiraishi replied that at the November 19th Regular Board meeting, the Board may act on the proposed rules or possibly defer a decision. Chair Shiraishi would first review the written and public testimony brought up at this public hearing and not make a decision at this time. Deliberations will be made at the November 19th Board meeting.

At 6:16 p.m., all public testimony was taken, Chairperson closed the hearing and said "There being no further testimony, I will close the public testimony portion of the public hearing regarding Proposed Amendments to the Rules and Regulations of the Board of Water Supply, County of

Public Hearing Meeting: Tuesday, November 10, 2015 - Page 6 of 7

Kaua'i, State of Hawai'i. The Department of Water is recommending the deletion of Part 4, Section VII (detailing the Facilities Reserve Charge) and the creation of a new Part 5 to be added to the Board of Water's Rules and Regulations. This new Part 5 will deal solely with Facilities Reserve Charges."

The Board will fully consider all written and oral testimony submissions made. The Board intends to make a decision regarding the proposed rules at the Regular Board meeting, Thursday, November 19th at 10:00 a.m. That meeting is open to the public and is held at the DOW Board Room. If there is no further business, the public hearing is now closed.

Respectfully submitted,

Approved,

Edie Ignacio Neumiller Commission Support Clerk Laurie Ho Secretary – Board of Water

Public Hearing Meeting: Tuesday, November 10, 2015 - Page 7 of 7

As used in this Section, the following rules of construction shall apply:

Number. Words in the singular or plural number signify both the singular and plural number.

<u>"Or", "and". Each of the terms "or" and "and", has the meaning of the other or of both.</u>

## SECTION III - APPLICABILITY

- 1.
   The Facilities Reserve Charge shall be assessed against all new developments

   and subdivisions requiring supply of water from the County of Kauai, Department of

   Water, and existing developments requiring new or additional supply of water from

   the Department's system. The Facilities Reserve Charge must be paid before water

   services are made available to the new or existing development.
- 2. The Facilities Reserve Charge shall be paid by all Applicants for new or additional water service, including but not limited to the following:
  - a. All irrigation services and/or meters.
  - <u>Additional buildings to be connected to existing services where additional demands</u> are indicated. The charges shall be based on the meter sizes required if the <u>buildings were metered separately.</u>
  - <u>c.</u> <u>Additional dwellings connected to existing services and meters under the</u> <u>categories of single family and multi-family residential units.</u> The charges will be <u>based on the established schedule of charges for the respective categories.</u>
  - d. Changes in service that require an increase in meter size.
  - e. Where an FRC was paid but a water meter was never installed to serve the subject property, the applicant shall pay the Facilities Reserve Charge in accordance with Part 5, Section IV (4) of these Rules.
- 3. The Facilities Reserve Charge shall apply to all Applicants for water service as follows:
  - a. For each parcel created by subdivision, including the first lot created; and for every new single family residential dwelling unit not yet metered and a Facilities Reserve Charge has not yet been paid, the applicable Facilities Reserve Charge shall be \$14,115.00.
  - <u>b.</u> <u>The Facilities Reserve Charge for multi-family and/or resort development will be the</u> <u>cost of the approved meter size or the cost of \$9,880.00 per unit or hotel room,</u> <u>whichever number is larger.</u>
  - <u>c.</u> For all other uses, the Facilities Reserve Charge shall be determined by the size of the meter, as shown below. Meter sizes shall be determined by the Department and not by the Developer or Applicant.

Meter Size	Amount		
<u>5/8"</u>	\$	14,115.00	
³ /4"	\$	21,170.00	
1"	\$	35,290.00	
1 1/2"	\$	70,580.00	
2"	\$	112,920.00	
3"	\$	225,840.00	
4"	\$	352,880.00	
6"	\$	705,750.00	
8"	\$	1,129,200.00	

<u>Facilities Reserve Charges are periodically adjusted by the Department. These</u> <u>adjustments may increase or decrease existing Facilities Reserve Charge amounts.</u> <u>Where adjustments to Facilities Reserve Charges result in decreases of such</u> <u>charges, no refund will be made of the difference between the higher, pre-existing</u> <u>charges and the lower, adjusted charges.</u>

## SECTION IV - COLLECTION AND REFUND OF FRC

- 1. Upon collection of the Facilities Reserve Charge, the Facilities Reserve Charge shall be deposited in a special trust fund or interest-bearing account. The portion that constitutes recoupment may be transferred to any appropriate fund.
- 2. If the Facilities Reserve Charge is not expended or encumbered within six years from the date of collection, it shall be refunded to the property owner or the property owner's successor in title, together with accrued interest (if any).
  - <u>a.</u> <u>An application for a refund shall be submitted to the Board within one year of the</u> <u>date upon which the refund right arises;</u>
  - <u>b.</u> <u>Amounts unclaimed within one year of the date the right to refund arises shall be</u> <u>retained in a special trust fund or interest bearing account and shall be expended</u> <u>for capital facilities improvement projects.</u>
- 3. If the Board terminates the Facilities Reserve Charge (or analogous) requirement, all unexpended or unencumbered funds shall be refunded to the property owner or the property owner's successor in title, together with accrued interest (if any).
  - a. Public notices of termination and availability of refunds shall be given by the Board at least two times in a manner approved by the Board. All funds available for refund shall be retained for a period of one year and at the end of said one year period, any remaining funds may be transferred to the Board's general fund and expended for any public purposes involving water supply or service as determined by the Board.
- <u>4. No FRC refund shall be made for existing meters requiring a decrease in water</u> <u>demand, decrease in meter size, or decrease in existing water supply fixture units;</u> <u>or requests to change service categories.</u>
- 5. Recoupment shall be exempt from subsections (2) and (3).
- Facilities Reserve Charge Paid Prior to Enactment of Part 5 Rules

- a. <u>This Section applies to those Applicants that have paid a Facilities Reserve Charge</u> prior to enactment of these Part 5 Rules and have failed to install a water meter on the subject property for which the Facilities Reserve Charge was paid, hereinafter referred to as "Prior Applicants".
- b. Prior Applicants shall have three (3) years from the date of enactment of these Part 5 Rules, hereinafter referred to as the "Grace Period", to install a water meter, at no additional Facilities Reserve Charge cost.
- <u>c.</u> <u>After expiration of the Grace Period, Prior Applicants must pay the difference of the original Facilities Reserve Charge paid and the Facilities Reserve Charge in effect at the time the meter is installed.</u>
- <u>d.</u> <u>The Manager may grant exceptions to item 6c if the Manager finds all of the</u> <u>following:</u>
  - <u>i.</u> <u>Strict application of the rule would cause an absurd, unfair, or unreasonably</u> <u>harsh result; and</u>
  - <u>ii.</u> <u>The Prior Applicant's circumstance or condition is unique or exceptional and</u> <u>the Manager would grant the same request if made by ever similarly situated</u> <u>Prior Applicant; and</u>
  - <u>iii.</u> Such exception thereof is as reasonably necessary or expedient and not contrary to law or the intent and purposes of these rules.
- 7. Facilities Reserve Charge Paid After Enactment of Part 5 Rules
  - a. The Department may issue conditional approval for water service requests.
  - <u>b.</u> <u>A conditional approval shall be valid for a period of one year and shall expire unless</u> <u>installation of the meter occurs within that period or an extension of the conditional</u> <u>approval is granted.</u>
    - <u>i.</u> <u>An extension of the conditional approval may be granted for a single</u> <u>additional one-year period.</u>
  - <u>Upon expiration, the conditional approval shall become null and void and the</u> <u>Applicant will be required to re-apply to the Department of Water for water service.</u> <u>Any request for water service will be dependent on the adequacy of the source,</u> <u>storage, and transmission facilities existing at that time.</u>
  - <u>d.</u> <u>A Water Meter Application and FRC payment can only be made upon completing</u> <u>the requirements set forth in the conditional approval.</u>
- Facilities Reserve Charges for Affordable and Work Force Facilities Housing Projects
  - a. <u>The Manager may defer collection of Facility Reserve Charges for Affordable or</u> <u>Workforce Housing Projects, provided, however that applicable Reserve Charges</u> <u>shall be collected before building permit approval or installation of applicable</u> <u>meters, whichever occurs first.</u>

b. Administrative fees related to the Facility Reserve Charge shall be waived for Affordable or Workforce Housing Projects.

## SECTION V - FRC OFFSETS

When an Applicant, is required to construct and dedicate water source or water storage facilities, or water transmission mains, to the Department, the following rules shall apply:

- 1.The applicable FRC liability of such Applicant, shall be offset by up to 22% where<br/>water source improvements are constructed, up to 41% where water storage<br/>improvements are constructed, and up to 37% where water transmission mains<br/>are constructed; provided that the total amount of all offsets that an Applicant,<br/>receives shall not exceed 100% of the Applicant's, FRC liability.
  - a. <u>An Applicant who provides 100% of the necessary source or storage or</u> <u>transmission requirements shall be entitled to an offset for the entire amount per</u> <u>category of source, storage, or transmission improvements as shown above.</u>
- 2. The Department, and not the Applicant, shall calculate and determine the total amount of an Applicant's, FRC offset in any given case. The Department may require the Applicant to submit documentation verifying the actual cost of a source or storage improvement or transmission main.
- 3. The offsets described in this Section V "FRC Offsets" shall not apply to water transmission mains constructed by an Applicant which are within or adjacent to a subdivision or lands either 1) owned by the Applicant, or 2) developed by the Applicant. Where water transmission mains are constructed within, adjacent to, or outside of such subdivisions or lands, the offsets shall apply only to mains constructed outside of and off-site from such subdivisions or lands.
- <u>4.</u> Grant Funds. Grant funds, specifically allocated to projects by the Grantor, may be used by the Manager to offset the FRC assessed to said projects on a dollar for dollar basis as it relates to source development, storage development and/or transmission main development.
  - a. <u>Applicants shall be offset by up to 22% where water source improvements are</u> <u>constructed; up to 41% where water storage improvements are constructed; and up</u> <u>to 37% where water transmission mains are constructed; provided that the total</u> <u>amount of all offsets that an Applicant receives shall not exceed 100% of the</u> <u>Applicant's FRC liability.</u>
  - b. The Manager shall determine which improvements are eligible for FRC offsets.
  - <u>c.</u> <u>FRC offsets shall be afforded only to those Applicants that are beneficiaries of the</u> <u>Grantor and identified as such at the time the Grant fund is made.</u>
  - d. FRC offsets for Grant Funds shall be a one-time event.

## SECTION VI - APPEAL OF FACILITIES RESERVE CHARGE

1. Any person assessed a Facilities Reserve Charge under these rules may contest the amount of the Facilities Reserve Charge assessed by following the requirements in Part 1 of these Rules and Regulations.

**SECTION 5.** Section III "FACILITIES RESERVE CHARGE" ONLY of Part 3 "ESTABLISHING STANDARDS FOR SUBDIVISION WATER SYSTEMS WITHIN THE COUNTY OF KAUAI" of the Rules is hereby amended as follows:

#### <u>"Part 3</u> <u>RULES AND REGULATIONS FOR ESTABLISHING STANDARDS FOR</u> SUBDIVISION WATER SYSTEMS

## SECTION III - FACILITIES RESERVE CHARGE

- 1. The subdivider shall pay to the Department the facilities reserve charge established in Part [4] 5 of the Rules and Regulations of the Department, for each (additional) parcel created by the subdivision, including the first lot, except (as provided below) when facilities reserve charges have already been paid by the developer or subdivider.
- 2. No facilities reserve charge will be made for lots created by the subdivision which will not be served by the Department's water system. In the event that the Department determines that the subdivision will not be serviced by the Department's water system, but later water service is requested, full payment of the then applicable facilities reserve charge must be paid. A statement to this effect shall be clearly lettered on the subdivision map.
- 3. No facilities reserve charge will be made for any parcel which is already serviced by an existing meter or which was serviced by a meter within 365 days prior to formal submittal of the subdivision request to the Planning Department.
- 4. The subdivider shall pay the facilities reserve charge to the Department prior to subdivision approval by the Department except that subdivision approval may be given prior to construction of required improvements and the payment of the facilities reserve charge by the posting of a bond, as described in Section XIII of this Part.
- 5. In the event the facilities reserve charge has been paid for a subdivision and subsequently the subdivision is consolidated, the facilities reserve charge will be returned provided the consolidation is completed within 365 days following the prior subdivision approval.

**SECTION 6.** Administrative rule material to be repealed is bracketed. New material is underscored. Deleted material is stricken through. In printing this rule amendment, the brackets, bracketed material, underscoring, strikes need not be included.

**SECTION 7.** If any provision of this rule amendment or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the rule amendment, which can be given effect without the invalid provision, or application, and to this end the provisions of this rule amendment are severable.

**SECTION 8.** This rule amendment shall be effective ten (10) days after it is filed with the County Clerk of the County of Kaua`i.

BOARD OF WATER SUPPLY

COUNTY OF KAUA'I

Sherman Shiraishi, Chairperson

DEPARTMENT OF WATER COUNTY OF KAUAI

Kirk Saiki, P.E.

Manager & Chief Engineer

APPROVED AS TO FORM AND LEGALITY:

Andrea Suzuki

Deputy County Attorney

Sato, Deputy County Clerk

for: Vade Fountain-Tanigawa County Clerk, County of Kaua'i Received this <u>19th</u> day of

November 2015

## CERTIFICATION

I hereby certify that the Board of Water Supply, County of Kauai, adopted the foregoing amendments to the Rules and Regulations of the County of Kauai Department of Water on **Thursday, November 19, 2015** under authority of Sec. 17.03D of the Kauai County Charter 2014, as amended, and that the provisions of Sec. 91-3, Haw. Rev. Stat., as amended, have been satisfied, including the holding of (1) public hearing on **Tuesday, November 10, 2015**, and the giving of proper notice for the public hearing, which notice was advertised in The Garden Island on **Friday, October 9, 2014 & Tuesday, November 10, 2015**.

Dated at Lihue, Kauai this _19th_ day of _November_ 2015.

Laurie Ho, Secretary BOARD OF WATER SUPPLY

#### CERTIFICATION OF COUNTY CLERK

! hereby certify on <u>Novmeber 19th</u>, 2015, I accepted for filing from the Kauai Board of Water Supply the Amenoment to the Rules and Regulations adopted on **Thursday, November 19, 2015.** 

Sato, Deputy County Clerk ott K. Tanigawa, County Clerk oun ounty of Kaua'!

Department of Water, County of Kauai Part 5, Rules & Regulations for Facility Recurve Obarge Page 12 of 12

BE IT RESOLVED BY THE BOARD OF WATER SUPPLY OF THE COUNTY OF KAUA'I, STATE OF HAWAI'I

**SECTION 1.** This amendment to the Rules and Regulations of the County of Kauai Department of Water (hereafter "Rules") is made pursuant to Section 17.03D of the Kauai County Charter 2014, as amended, and Chapter 91, Haw. Rev. Stat. as amended.

#### SECTION 2. Summary of Rule Amendment.

The amendment to the Rules modifies the Department's facilities reserve charges. These charges were found in Section VII of Part 4, "FIXING RATES FOR THE FURNISHING OF WATER SERVICE IN THE COUNTY OF KAUA'I" AND in Section III of Part 3 "ESTABLISHING STANDARDS FOR SUBDIVISION WATER SYSTEMS WITHIN THE COUNTY OF KAUA'I" This new Part 5 will deal solely with Facilities Reserve Charges.

**SECTION 3.** Section VII "FACILITIES RESERVE CHARGE" ONLY Part 4 "FIXING RATES FOR THE FURNISHING OF WATER SERVICE IN THE COUNTY OF KAUA'I" of the Rules is hereby amended to delete Section VII and renumbers Part 4 to ten (10) sections.

## "PART 4

FIXING RATES FOR THE FURNISHING OF WATER SERVICE IN THE COUNTY OF KAUA'I"

## -ISECTION VII - FACILITIES RESERVE CHARGE

- 1. The water system facilities reserve charge shall be assessed against all new developments and subdivisions requiring supply of water from the County of Kauai, Department of Water, and existing developments requiring additional supply of water from the Department's system. The facilities reserve charge must be paid before water services are made available to the new or existing development.
- 2. The water system facilities reserve charge-shall be paid by all applicants for water-service, including-but not-limited to the following:
  - a. All irrigation services and/or meters.
  - b. Additional buildings to be connected to existing services where additional demands or supplies are indicated. The charges shall be based on the meter sizes required if the buildings were metered separately.
  - Additional units connected to existing services and meters under the categories of single family and multi-family residential units. The charges will be based on the established schedule of charges for the respective categories.

3. The water system facilities reserve charges shall apply to all applicants for water service as follows:

- a. For each parcel created by subdivision, including the first lot created; and for every new single family residential dwelling unit not yet metered and a facilities reserve charge has not yet been paid, the charge shall be \$4,600.00.
- b. For each unit or hotel room in a multi-family residential development and/or resort development, which applies to each unit or hotel room the charge IV E shall be \$4,600.00.

BUSINESS ASSISTANCE BRANCH

DEC -

2,2015

c. For all other uses, the facilities reserve charge shall be determined by the size of the meter as follows:

<u>Meter-Size</u>	Amount	
<del>5/8"</del>	\$	4,600.00
<u>-3/4"</u>	\$	
1"	\$	
1 1/2"	Ś	
-2"	\$	90,700.00
-3"	\$	170,000.00
"	\$	283,400.00
-6"	\$	566,800.00
-8"	\$	907,000.00

Meter sizes shall be determined by the Department and not by the Developer or Applicant. The facilities reserve charge for multi-family and/or resort development will be determined by the approved meter size or the number of units, whichever number is larger.

Facilities reserve charges are periodically adjusted by the Department. These adjustments may increase or decrease existing facilities reserve charge amounts. Where adjustments to facilities reserve charges result in decreases of such charges, no refund will be made of the difference between the higher, pre-

#### 4. FRC-Offsets.

a-

- .
- Definitions-and-construction-of-words. As used in this-paragraph-4, the following definitions shall apply:

"Applicant" means any person, individual, corporation, partnership, business, organization, association, or other entity whatsoever that applies for water service from the Department.

"Consumer" has the meaning ascribed to it under Section I of Part 2 of the Department's Rules and Regulations.

"FRC" means the facilities reserve charges described in section VII of Part 4 and Section III of Part 3 of the Department's rules.

"Offset" means reduced or reduction.

"Subdivider" has the meaning ascribed to it under section I of Part 3 of the Department's Rules and Regulations.

<u>"Subdivision" has the meaning ascribed to it under section I of Part</u> 3 of the Department's Rules and Regulations.

"Water transmission main" or "main" means a main extension under Paragraph 2.d-[2.a.(4)] of Section II of Part 2 of the Department's Rules and Regulations.

As used in this Paragraph 4, the following rules of construction shall apply:

Number. Words in the singular or plural number signify both the singular and plural number.

"Or", "and". Each of the terms "or" and "and", has the meaning of the other or of both.

b. When an applicant, consumer, or subdivider is required to construct and dedicate water source or water storage facilities, or water transmission mains, to the Department, the following rules shall apply.

Subject to the provisions of this paragraph 4, the applicable FRC liability of such applicants, consumers, or subdividers shall be offset by up to 33% each where water source or water storage improvements are constructed, and up to 50% where water transmission mains are constructed; provided that the total amount of all offsets that an applicant, consumer, or subdivider receives shall not exceed 100% of the applicant's, consumer's, or subdivider's FRC liability, and provided further that the offset for any source or storage improvement or transmission main shall not exceed the actual cost of the source or storage improvement or transmission main. The Department, and not the applicant, consumer, or subdivider's FRC offset in any given case. The Department may require the applicant, consumer, or subdivider's FRC offset in any given case. The Department may require the applicant, consumer, or subdivider to submit documentation verifying the actual cost of a source or storage improvement or transmission main.

c. The offsets described in this Paragraph 4 "FRC Offsets" shall not apply to water transmission mains constructed by a subdivider, applicant or consumer which are within or adjacent to a subdivision or lands either 1) owned by the applicant or consumer, or 2) developed by the applicant or consumer for uses such as, but not limited to, residential, agricultural, commercial, resort, industrial, governmental, religious, or educational uses. Where water transmission mains are constructed within, adjacent to, or outside of such subdivisions or lands, the offsets shall apply only to mains constructed outside of and off-site from such subdivisions or lands."]

## SECTION VIII - OTHER CHARGES

- 1. <u>Restoration of Water Service</u>. If a consumer's water service is turned off for failure to pay a bill, for violation of any of the provisions of these rules and regulations, or for other reasons, all outstanding accounts against said consumer plus the charge for reopening, reinstallation or reconnection must be paid before water service be restored. Said charges shall be as established by the Department.
- 2. <u>Fire Hydrant and Other Temporary Meters.</u> In addition to regular meter service charge and water consumption charge, there shall be installation, removal, testing and user charges for all Fire Hydrant and other temporary meters as established by the Department.
- 3. Pass Through of Private Charges.

a) As used in this Paragraph 3:

"Private charge" or "private charges" means charges, fees, assessments, exactions, and all other moneys a private water company may require the Department to pay to permit the Department to purchase water from the company. The terms include contribution-in-aid-of-construction charges that a company may assess against the Department.

"Private water company" or "company" means any department or agency of the federal government or the State of Hawaii, any private person, trust, association, corporation, partnership, or business, and any water utility regulated by the Hawaii Public Utilities Commission.

(b) Whenever the Department purchases water from a private water company for end use by any of the Department's consumers or prospective consumers and the company imposes private charges in excess of any similar

charge or fee imposed under the Department's administrative rules, the Department shall require a consumer or prospective consumer to pay, in addition to the Department's charge or fee, the difference between the charge or fee imposed under the Department's rules and the similar private charge imposed by the company. If the private charge imposed is less than the similar charge or fee imposed under the Department's administrative rules, the consumer or prospective consumer shall not be entitled to the difference between the private charge imposed and the similar charge or fee imposed under the Department's rules.

Whenever the Department purchases water from a private water company for end use by any of the Department's consumers or prospective consumers and the company imposes private charges that are dissimilar to any charge or fee imposed under the Department's administrative rules, the Department shall require a consumer or prospective consumer to pay an amount equal to the dissimilar private charge imposed by the company."

#### SECTION [IX] VIII- TEMPORARY GRANTS OF WATER

- 1. **Purpose.** The purpose of this section is to establish standards for temporary grants of water to support the initial development of county or state public beautification projects or the initial or further development of county or state public parks and public ways.
- 2. <u>Temporary Grants of Water</u>. The Board of Water Supply may, in its discretion, authorize temporary grants of water to support the initial development of county or state public beautification projects or the initial or further development of county or state public parks and public ways.

Any county or state department, office, or agency wishing to receive such temporary grants of water shall apply to the Board of Water Supply for such temporary grants. The application shall explain or describe in detail the contemplated project, why a temporary grant of water from the Department is necessary, what other efforts the applicant has made to obtain water from other sources, for what specific purposes the water will be used, and how the water provided will yield public benefits. The applicant shall also certify that there were no other available sources which can be used to support the project in question.

For each application, the Board shall determine and establish a maximum time limit that water may be provided to an applicant and a quantity limit on the amount of water that may be drawn.

The Board and the Manager and Chief Engineer may prescribe conditions under which water may be drawn so that the provision of water to the applicant does not adversely affect the Department's ability to provide water to its other users.

## SECTION IX - COST OF POWER ADJUSTMENT CLAUSE

All water consumption (for general use, agriculture use and ships) shall be subject to the imposition of a Cost of Power Adjustment as part of all water consumption charges.

The Department will review the actual unit costs of power for each twelve month period ending March 31st as part of the Department's annual budget review process. The power cost adjustment for the upcoming fiscal year will be calculated as the sum of the following two components:

1) the difference (plus or minus) between budgeted unit power costs for the upcoming fiscal year and the projected unit power costs, and

2) the difference (plus or minus) between the actual unit power costs incurred during the twelve-month period ending March 31st as previously described and the projected unit power costs.

The sum of these two components, calculated on a dollar[s] per thousand gallons basis, will be applied to all water consumption.

Any power cost adjustments will be implemented on July 1st of each year.

## SECTION XIII - LATE CHARGES

A late payment charge may be applied to any delinquent balance payable to the Department. The late payment charge shall be assessed at the rate of half a percent (0.5%) for each month or fraction thereof against the delinquent balance, beginning 30 days after the date of the bill.

For the purposes of this section, 'delinquent balance' includes any loan, fee, charge, or other liquidated sum which is 30 days past due to the Department, regardless of whether there is an outstanding judgment for that sum, and whether the sum has accrued through contract, subrogation, tort, operation of law, or administrative order.

**SECTION 4.** Part 5 "FACILITIES RESERVE CHARGE IN THE COUNTY OF KAUA'I" of the Rules is hereby created as follows:

## <u>"Part 5</u> <u>FACILITIES RESERVE CHARGE IN THE COUNTY OF KAUA'I"</u>

## SECTION I - GENERAL PROVISIONS

#### 1. Purpose and Authority

- a. Capital water facilities expansion is needed in order to accommodate increased demands on existing source, storage, and transmission pipeline capacity due to new development and/or additional demand of existing users. New development and/or additional demand shall be assessed a Facilities Reserve Charge in proportion to its impact and demand on capital water facilities. The Facilities Reserve Charge shall be expended for public capital water facilities projects. These rules were enacted pursuant to Hawaii Revised Statutes (H.R.S.) §46-141 *et seq.* and other applicable State law.
- 2. Findings
  - a. In the review of the impact of growth relative to the existing and planned capital water system facilities capacity available to the water system, the Board hereby finds that the recent and anticipated population growth rates and corresponding water demands would place additional burdens on the existing water system. The Board further finds that such growth and increased demand would necessitate increased expenditures of public funds in order to create adequate facilities and to promote and protect the public health, safety, and welfare. The Board also finds that it is fair and reasonable to impose additional fees to accommodate such development. *Finally, the Board finds that establishing benefit zones as identified in Hawaii Revised Statutes (H.R.S.)* §46-14* is not necessary as a reasonable benefit can otherwise be derived.

 <u>b.</u> The following rules shall govern the assessment of impact fees for the Board of Water Supply, County of Kauai capital water facilities expansion. New development and/or additional demand shall be assessed impact fees in proportion to its demand on capital water facilities and the impact fees assess shall be expended for public capital water facilities projects. The Facilities Reserve Charge (FRC) was adopted in accordance with the report prepared by an independent consultant retained by the County of Kauai, Board of Water Supply (Board) to assess and study water facilities. The report calculated the proportionate costs associated with the water development needs as laid out in the Board approved Department facilities needs assessment study entitled "Water Plan 2020", as amended.

## SECTION II - DEFINITIONS

<u>"Affordable or Workforce Housing Project" shall mean any project confirmed or</u> <u>sponsored by the County Housing Agency as a residential development where the</u> <u>majority of housing lots, single family dwelling units, or multiple-family dwelling units</u> <u>are affordable housing or workforce housing as defined in Chapter 7A of the Kauai</u> <u>County Code 1987, as amended.</u>

<u>"Applicant" means any person, individual, subdivider, corporation, partnership,</u> <u>business, organization, association, or other entity whatsoever that applies for</u> <u>water service from the Department.</u>

<u>"Consumer" has the meaning ascribed to it under Section I of Part 2 of the Department's Rules and Regulations.</u>

<u>"Facilities Reserve Charge" (FRC) means the fee to be paid by an Applicant as</u> their proportionate share in required improvements to capital water facilities.

<u>"Grant Funds" shall mean a contribution, gift, or subsidy bestowed to the Board for</u> <u>specific water facilities improvement associated with a specific project that</u> <u>necessitates such water facilities improvements.</u>

"Grantor" means the person or entity that makes a grant of funds.

<u>"Offset" means a reduction in Facilities Reserve Charge designed to fairly reflect</u> the value of non-site related capital water facilities improvements provided by an Applicant pursuant to Department of Water requirements.

<u>"Recoupment" shall be defined as in H.R.S. 46-141, as amended, and refers to the proportionate share of the water facility capital improvement costs of excess capacity in existing water capital facilities where excess capacity has been provided in anticipation of the needs of development.</u>

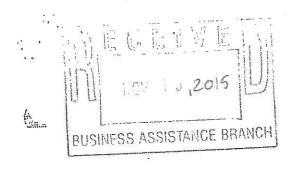
<u>"Subdivider" has the meaning ascribed to it under section I of Part 3 of the</u> <u>Department's Rules and Regulations.</u>

<u>"Subdivision" has the meaning ascribed to it under section I of Part 3 of the Department's Rules and Regulations.</u>

<u>"Water transmission main" or "main" means a main extension under Paragraph 2.d</u> [2.a.(4)] of Section II of Part 2 of the Department's Rules and Regulations.

# Exhibit 8

§19-38.1-1



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#### HAWAII ADMINISTRATIVE RULES

#### TITLE 19

#### DEPARTMENT OF TRANSPORTATION

#### SUBTITLE 2

#### AIRPORTS DIVISION

#### CHAPTER 38.1

#### ON-DEMAND TAXI SERVICE AT PUBLIC AIRPORTS

§19-38.1-1 ·	
§19-38.1-2	Purpose .
§19-38.1-3	Applicability
§19-38.1-4	Airports without a taxi management concessionaire
§19-38.1-5	Airports with a taxi management concessionaire
§19-38.1-6	Taxi driver qualification; taxi vehicle requirements
§19-38.1-7	Taxi management concession
§19-38,1-8	Insurance
§19-38.1-9	Signs
§19-38.1-10	Taxi driver conduct
§19-38.1-11	Indemnification and hold harmless
§19-38.1-12 ·	Severability
§19-38.1-13	Enforcement -
§19-38.1-14	Cumulative penalty
§19-38.1-15	Subordination to sponsor's assurance
§19-38.1-16	Repeal

Historical note. This chapter is based substantially on chapter 19-38. [Eff 12/16/93; R ]C] 04 1997

§19-38.1-1 <u>Definitions</u>. Unless the context indicates otherwise, as used in this chapter: "Department" means the state department of

transportation.

"Director" means the director of transportation or his duly authorized representative.

"On-demand taxi service" means those taxi services in which a customer has made no prior arrangement for services. "Open-access taxi system" means a taxi system that will allow all qualifying taxi drivers and vehicles to provide taxi service at public airports.

"Public airport" or "airport" means any area of land and water under state jurisdiction which is used, or intended for use, for landing and taking-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, including approaches, together with all airport buildings and facilities located thereon.

"State" means the State of Hawaii.

"Taxi" or "taxicab" means the motor vehicle used to provide taxi service in or at a public airport.

"Taxi driver" means the operator or driver of a taxi.

"Taxi driver authorization" means an authorization issued by the director or taxi management concessionaire for the purpose of authorizing a taxi driver to provide on-demand taxi service at a public airport, pursuant to this chapter.

"Taxi management concessionaire" means the concessionaire hired by the State to provide an openaccess taxi system at a public airport.

"Taxi service" means the service of providing a motor vehicle for hire by the public in or at a public airport, which motor vehicle shall have a driver other than the hirer and be used for the purpose of transporting the hirer and incidental personal property to a destination over a route controlled by the hirer and is subject to a metered rate or tariff as prescribed and authorized by county ordinance or rules.

§19-38.1-2 Purpose. The purpose of this chapter is to regulate the open-access taxi system at public airports and to ensure safe, orderly and reliable taxi service for the travelling public. [Eff OC | 04 1997 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

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§19-38.1-4

§19-38.1-3 <u>Applicability</u>. This chapter applies to airports with or without taxi management concessionaires, unless indicated otherwise. [Eff OCT 04 1997 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-38.1-4 <u>Airports without a taxi management</u> <u>concessionaire</u>. (a) At airports without a taxi management concessionaire, the following permit or authorization shall be obtained to provide on-demand taxi service at airports:

No taxi shall be used to provide taxi service (1)from a public airport without a taxi vehicle permit. The taxi vehicle permit shall be in the form of a vehicle decal, and issued by the director upon payment of the monthly or per trip fee and upon qualification of the vehicle as required by this chapter. The permit is limited only to the airport where issued, and is renewable on a monthly basis, upon payment. of the appropriate fee. The permit shall not be assigned or otherwise transferred, and shall · be prominently displayed while operating at the airport in a manner prescribed by the director. No taxi driver shall be allowed to provide taxi (2)service from a public airport without having obtained the authorization of the director. The taxi driver authorization shall be in the form of a driver identification badge issued by the director and shall not be assigned or

form of a driver identification badge issued by the director and shall not be assigned or otherwise transferred. The driver identification badge shall be valid only at the airport where issued, and shall be worn while operating at the airport in a manner prescribed by the director. The driver shall pay a fee of \$5 to the director for the cost of processing the initial application of the driver identification badge. The taxi driver identification badge shall be renewed annually.

(3) No permit shall be issued to an applicant, including existing authorized taxi vehicles and drivers, who are in arrears of payment of taxes, rent, or other charges to the State or political division or subdivision, agency, authority, commission or instrumentality

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thereof. An applicant shall meet the taxi driver qualification or taxi vehicle requirement standards as required by this chapter.

(b) At airports without a taxi management concessionaire, the following fees shall apply:

(1) Taxi vehicles authorized to be used for providing taxi service at public airports that do not have a taxi management concessionaire hired by the State shall, as a condition for the issuance of a permit, be assessed the following fees, payable to the State as applicable:

- (A) A monthly fee of \$400 per taxi
   vehicle at Honolulu International
   Airport, or a single trip fee of \$4
   for each trip originating from
   Honolulu International Airport;
- (B) A monthly fee of \$400 per taxi vehicle at Kahului Airport, or a single trip fee of \$4 for each trip;
- (C) A monthly fee of \$250 per taxi vehicle at Kona International Airport at Keahole;
- (D) A monthly fee of \$150 per taxi vehicle at Lihue Airport;
- (E) An annual fee of \$100 per taxi vehicle at all other public airports.

(2) The fees shall:

- (A) Be paid in advance of the period the taxi vehicle is used to provide taxi service;
  - (B) Not be subject to proration; and
  - (C) Not be non-refundable.

(c) At airports without a management concessionnaire, the following procedures shall apply for review of suspension or termination of taxi vehicle permits or taxi driver authorization.

(1) A taxi vehicle permit or taxi driver

authorization, issued under this chapter may be suspended or revoked by the director for violation of this chapter. The suspension or revocation may be contested by providing notice to the director within fourteen days after receipt of a written notice of suspension or revocation that provides the reasons for the suspension or revocation and the length of the proposed suspension. Upon receipt of the

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§19-38.1-5

notice to contest, the director may appoint a hearing officer to conduct a contested case hearing and allow the presentation of evidence or testimony to contest the facts upon which the suspension or revocation is based. If the director upholds the proposed suspension or revocation based on the hearing officer's recommendation, the period of suspension or revocation shall begin five days following receipt of the final decision and order of the director.

The taxi vehicle permit or taxi driver authorization may be terminated with or without cause by the director or by the taxi driver authorized to provide taxi service at a public airport, upon thirty days prior written notice. Upon notification of termination, the taxi vehicle decal or driver identification badge shall be returned within three business days to the director or taxi management concessionaire. [Eff 001041991] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-38.1-5 <u>Airports with a taxi management</u> <u>concessionaire.</u> (a) At airports with a taxi management concessionaire, the concessionaire shall develop an appropriate permitting system to qualify taxi drivers and taxis, in accordance with section 19-38.1-6.

(2)

- (1) No taxi shall be used to provide taxi service from a public airport without a taxi permit issued by the taxi management concessionaire.
- (2) No taxi driver shall be allowed to provide taxi service from a public airport without having obtained the authorization of the taxi management concessionaire.
  - (3) No permit or authorization shall be issued to an applicant who is in arrears of payment of taxes, rent, or other charges to the State or political division or subdivision, agency, authority, commission or instrumentality thereof. An applicant shall meet the taxi driver qualification or taxi vehicle requirement standards as required by this chapter, as appropriate.

(b) At airports with a taxi management
 concessionaire, the taxi management concessionaire shall
 develop a procedure to suspend or revoke taxi vehicle
 permits and taxi driver authorizations for violation of
 this chapter in accordance with procedures established in
 the lease between the concessionaire and the director.
 (c) Taxi driver participation fees shall be subject

to prior review and approval of the director. {Eff OCI 04 1997 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-38.1-6 Taxi driver qualification; taxi vehicle requirements. (a) No taxi driver shall be authorized to operate at a public airport without the necessary permits, licenses, approvals, qualifications, and certification required by this chapter or by the laws of the State or any other governmental body having the jurisdiction to regulate the operation of a motor vehicle or the carrying of baggage or people for hire on any vehicle in the State.

(b) With regard to qualifications, the taxi driver shall:

- Have a valid motor vehicle driver license issued by the State and evidence of having one year driving experience in the county in which the application is made;
- (2) Be a citizen or alien who has been admitted for permanent residence or who has otherwise been granted employment authorization by the United States Immigration and Naturalization Services;
- (3) Be at least 18 years of age;
- (4) Not have outstanding arrest warrants or criminal convictions pending for offenses committed while driving intoxicated or recklessly;
- (5) Not be addicted to the use of drugs or alcohol, and shall sign a form consistent with the Drug-Free Workplace Act;
- (6) Be subject to background checks or clearances if required by Federal Motor Carrier Safety Regulations and applicable state statutes;

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- (7) Submit a certificate from a licensed physician indicating the applicant's condition as to visual acuity and hearing ability, and shall be, in the opinion of the physician, free of medical conditions that may render the driver unfit for the safe operation of a motor vehicle; and
- (8) Pass a written examination, to be administered by the director or taxi management concessionaire in the English language, covering airport taxicab operations, vehicle safety procedures, applicable department's Motor Vehicle Safety Office and Hawaii Administrative Rules, local traffic laws, passenger courtesy and assistance procedures, public relations, and knowledge of major destinations in the county in which the application is made.

county in which the application is made. (c) A taxi driver shall comply with instructions issued by the director regarding the taxi staging sequence to implement an open-access taxi system pertaining to:

- Location of designated passenger pickup areas, taxicab stands, taxicab hold areas;
- (2) Queuing procedure to wait their turn to pickup passengers; and
- (3) Circulation path while on the airport.

(d) Any vehicle being issued a permit under this chapter shall be licensed by the appropriate governmental regulatory agency, operating in conformance with the requirements and procedures prescribed by such agency, and at all times display a current safety sticker and current evidence of licensing and registration by the applicable regulatory agency of the government.

- (e) Taxi vehicles shall:
- Be equipped with a taxicab meter in accordance with the terms and conditions as set forth by the state Office of Weights and Measures (the taxicab meter must be mounted in a permanent manner in a position that is visible to all passengers);
- Display in the interior of the taxicab the typical authorized fares to major destinations in the county;
- (3) Provide a seating capacity for at least five passengers, including the driver, and shall be in safe mechanical condition, clean and acceptable in appearance, and in damage-free condition;

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#### §19-38.1-6

- (4) Have an illuminated taxicab domelight mounted on the roof of the vehicle, in accordance with the county rules and regulations as applicable;
- (5) Comply with the rules and regulations set forth by the department's Motor Vehicle Safety Office; and
- (6) Where required by the director, have a two-way radio with the capability to operate on the appropriate airport frequency to meet taxi service dispatch requirements.

(f) The director may in the interest of public safety or in the interest of improving airport operations, establish additional airport procedures and requirements covering taxi driver qualifications, identification and conduct, and vehicle standards.

(g) Failure to meet the established standards for taxi driver qualification, taxi driver conduct, and vehicle requirement shall be grounds for non-issuance or revocation of the taxi vehicle permit or taxi driver authorization. The taxi vehicle permit or driver identification badge shall be returned to the issuing agency within three business days after the notice of revocation is received. [Eff 0004 1997 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-38.1-7 Taxi management concession. The director may lease a concession area to a taxi management concessionaire to provide an open-access taxi system at a public airport. [Eff UC 04 997 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-38.1-8 <u>Insurance</u>. (a) As a condition for the issuance of a taxi vehicle permit, each taxi vehicle shall have liability and other insurance of the type and amount required for taxi license as required by the county in which the vehicle will be used for taxi service.

(b) In addition to motor vehicle liability insurance, the taxi drivers issued a taxi driver authorization to participate in providing on-demand taxi services at public airports shall maintain and keep in force adequate comprehensive general liability insurance as determined by the director to provide coverage against claims arising out of the taxi driver's operations on airport premises for injury to persons or damage to property. This requirement may be satisfied by taxi drivers being party to a taxi concessionaire's or company's comprehensive general liability insurance policy.

(c) An applicant for a taxi vehicle permit or taxi driver authorization, shall provide the director or taxi management concessionaire with a certificate of insurance naming the applicant as the insured and the department and the taxi management concessionaire, when applicable, as additional insured under each insurance policy for coverage to individuals providing taxi service under this chapter. Certificates of insurance for each such policy shall be provided to the director or taxi management concessionaire within thirty days prior to commencing taxi service. The insurer shall provide certificates of insurance to the director or taxi management' concessionaire within thirty days of any material changes to any policy including coverage and shall provide notification within thirty days of cancellation. OCT 04 199/ ] (Auth: HRS §261-12) [Eff (Imp: HRS §261-7)

§19-38.1-9 <u>Signs</u>. No taxi vehicle used as a taxi at a public airport shall display any sign that extends more than six inches above the roof. Flashing lights and audible devices, other than that required by safety ordinances and regulations, are prohibited. The external display of any rates or fees on a taxi is also prohibited. [Eff **ICT** 04 1997 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-38.1-10 <u>Taxi driver conduct</u>. A taxi driver who is issued a taxi driver authorization to provide on demand taxi services at public airports shall:

- Be authorized to provide taxi service only in the area designated by the director who may change any designated area when such change is deemed necessary and is in the best interest of safety to persons and property;
- (2) Maintain the designated taxi service area in a safe, clean and sanitary condition;

- (3) Keep all taxis operated at any public airport in good mechanical condition, clean and suitable for providing taxi service (the department may prohibit the operation of any taxi unsuitable for providing taxi service);
- (4) Furnish service on a fair, equal and nondiscriminatory basis to the public;
- (5) Conduct business in an orderly, courteous and businesslike manner;
- (6) Present a clean and neat appearance at all times;
- (7) Be suitably uniformed or clothed;
- (8) Refrain from use of profanity, offensive or rough and disturbing behavior;
- (9) Not solicit at public airports any gratuities or any other business not directly related to providing taxi service at a public airport;
- (10) Upon finding lost or forgotten article in the taxi, report and turn the article over to the airport lost and found;
- (11) At all times comply with all applicable laws, ordinances, terms or agreements, and rules and regulations; and
- (12) Comply with instructions and procedures issued by the director or taxi management concessionaire regarding driver and vehicle identification requirements, fee payment process, and taxi operation pertaining to:
  - (A) Location of designated passenger pickup areas, taxi stands, taxi hold areas;
  - (B) Queuing procedures; and

(C) Operating routes.

[Eff OCT 04 1997 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-38.1-11 <u>Indemnification and hold harmless</u>. Applicants for a taxi vehicle permit or taxi driver authorization to provide on-demand taxi services at public airports shall indemnify and hold harmless the director, department and the State from any action or claim arising out of their use of the airport and operation of a taxi service pursuant to this chapter. Failure to comply with the requirement of this section shall be grounds for non-issuance of the taxi vehicle permit or taxi driver authorization. [Eff []C] (4 []9] ] (Auth: HRS §261-12) (Imp: HRS §261-7)

#### §19-38.1-16

§19-38.1-12 <u>Severability</u>. The provisions of this chapter are declared to be severable and if any portion or the application thereof is held to be invalid for any reason, the validity of the remainder of this chapter shall not be affected. [Eff []CT 04 1997 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-38.1-13 <u>Enforcement</u>. This chapter may be enforced by police officers or any person deputized pursuant to section 261-17, Hawaii Revised Statutes. [Eff **ICT** 04 1997 ] (Auth: HRS §261-12) (Imp: HRS §261-17)

§19-38.1-14 <u>Cumulative penalty</u>. In addition to the penalties provided in this chapter, penalties for violations of this chapter shall be as set forth in section 261-21, Hawaii Revised Statutes. [Eff OCI 04 1997] ] (Auth: HRS §261-12) (Imp: HRS §261-21)

§19-38.1-15 <u>Subordination to sponsor's assurance</u> <u>agreement</u>. A taxi vehicle permit or taxi driver authorization to provide on-demand taxi service at a public airport shall be subordinate and subject to the terms and conditions of any sponsor's assurance agreement executed between the State and the United States of America, which is in force during the term of the taxi vehicle permit or taxi driver authorization. [Eff **UC** 04 1997 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-38.1-16 <u>Repeal</u>. Chapter 19-38 is repealed. [Eff OCT 04 1997 ] (Auth: HRS §261-12) (Imp: HRS §261-12)

### DEPARTMENT OF TRANSPORTATION

The repeal of Chapter 19-38, and Chapter 19-38.1, Hawaii Administrative Rules, on the Summary Page dated September 10, 1997 were adopted on September 10, 1997 following public hearings held on March 24 and 25, and April 15, 1997 after public notice was given in the Honolulu Advertiser, Honolulu Star-Bulletin, Maui News, and West Hawaii Today on February 13, 1997 and in the Hawaii Herald-Tribune on March 11, 1997.

The repeal of Chapter 19-38 and adoption of Chapter 19-38.1, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

KAZU HAYASHIDA Director of Transportation

APPROVED:

BENJAMIN J. CAYETAN Governor State of Hawaii

Date:

SEP 24 1997

Filed

APPROVED AS TO FORM:

LIEUTENANT GOVERNOP" OFFICE :46

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Deputy Attorney General

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## HAWAII ADMINISTRATIVE RULES

# TITLE 19

# DEPARTMENT OF TRANSPORTATION

## SUBTITLE 2

# AIRPORTS DIVISION

# CHAPTER 20.1

# COMMERCIAL SERVICES AT PUBLIC AIRPORT

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### SUBCHAPTER 1

#### GENERAL PROVISIONS

§19-20.1-1 Applicability. This chapter shall apply to the following types of commercial services permitted at or in public airports:

(1) Aircraft ground handling;

- (2) Baggage pickup and delivery;
- (3) Commercial photography;
- (4) Greeting services for hire;
- (5) In-flight catering;
- (6) Merchandise delivery;
- (7) Porter services; and

(8) Prearranged ground transportation.

[Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

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§19-20.1-2 <u>Definitions</u>. Unless the context clearly indicates otherwise, as used in this chapter:

"Aircraft" means airplanes, airships, dirigibles, helicopters, gliders, amphibians, seaplanes and any other contrivance now or hereafter used for the navigation of or flight in air space.

"Airline lessee" means any aircraft operator that has entered into a lease with the department for the use of land or facilities at a public airport.

"Air operations area" means any portion of a public airport, from which access by the public is prohibited by fences or appropriate signs, and which is not leased or demised to anyone for exclusive use and includes runways, taxiways, all ramps, cargo ramps and apron areas, aircraft parking and storage areas, fuel storage areas; maintenance areas, and any other area of a public airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft or used for embarkation or debarkation of passengers.

"Department" means the department of transportation of the State.

"Director" means the director of the department of transportation or his duly authorized representative.

"Gross receipts" includes all moneys paid or payable to the person providing one of the commercial services, specified in section 19-20.1-1, at a public airport, regardless of whether the order, reservation or payment for the commercial service is made within or without the public airport. The term "gross receipts" excludes any general excise taxes upon a consumer collected by the person providing the commercial service at a public airport. (For prearranged ground transportation services, the term "gross receipts" also excludes public service company taxes, commissions to travel agents, revenues from arrival sightseeing enroute to the hotel in excess of two hours or its equivalent, and receipts reportable under other commercial service permits, provided all such exclusions are segregated and identified in the accounting process of the person providing prearranged ground transportation services at a public airport.)

"Passenger" means any person who arrives or departs from a public airport aboard an aircraft except for persons comprising the flight crew of the aircraft.

"Permittee" means any person authorized to provide any of the commercial services, specified in section 19-20.1-1, in or at a public airport under a permit or other written authorization from the director.

"Person" means any individual, firm, partnership, corporation, trust, association, company, joint venture, or any other legal entity (including any assignee, receiver, trustee, employee, or similar representative).

"Public airport" means that area of land and water under governmental jurisdiction which is used for landing and taking-off of aircraft, any appurtenant areas which are used for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

"Solicit" means to ask, implore, plead for; to endeavor to obtain by asking; to importune; to seek actively though silently; or to try to obtain.

"State" means the State of Hawaii. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-3 Permit or authorization required. Any person providing any of the commercial services specified in section 19-20.1-1 in or at a public airport shall do so only upon receipt of a permit or other written authorization from the director which shall be issued upon payment of the applicable fees. A permit shall not be assigned or otherwise transferred. A permit shall not be issued to applicants who are in arrears in the payment of taxes, fees or other charges to state agencies. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-4 Payment of fees. (a) The required fees for each type of commercial services are specified in the applicable subchapter.

(b) Time of payment.

- Annual fees shall be paid annually in advance of providing commercial services at or in public airports; and
- (2) Monthly fees (including percentage fees) shall be paid on or before the twentieth day of the succeeding month.

(c) Any amount payable which is not paid when due shall bear interest at the rate of one percent per month or the maximum rate of interest allowable by law.

(d) Payments due under this chapter shall be made at or sent to the airports division, department of transportation, Honolulu International Airport, Honolulu, Hawaii 96819; or any of its offices located at Hilo International Airport, Hilo, Hawaii 96720; Kona International Airport at Keahole, Kailua-Kona, Hawaii 96740; Kahului Airport, Kahului, Hawaii 96732; or Lihue Airport, Lihue, Hawaii 96766.

[Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20,1-5 Records; audit of records; reports.
(a) This section shall apply to permittees who are
required to pay percentage fees.

(b) The permittee shall maintain up-to-date records and books in accordance with a recognized system of bookkeeping and such records and books shall reflect a segregation of airport revenue in the general ledger, reconciled and supported by original source documents. Such records including original source documents shall be kept for three years in the State following the end of the permit year.

(c) The State shall be granted access, at all reasonable times, to all books, accounts, records and reports including gross income tax reports, showing daily receipts; and at any reasonable time on twentyfour hours notice the permittee will permit a complete audit to be made by the State's accountant or by a certified public accountant of the permittee's entire business affairs and records relating to the business conducted at, from or in connection with the airport for the term of the permit. The permittee will cooperate fully in the making of any inspection, examination or audit. Should such audit by the State's accountant or by a certified public accountant disclose that fees have been underpaid by two percent or more for any period under examination, the State shall, in addition to the remedies provided in subsection (e) of this section, be entitled to reimbursement of the reasonable cost of any such audit in addition to the deficiency. If such audit by the State's accountant or by a certified public accountant shall disclose that fees have been underpaid by five percent or more for the period under examination, the State shall, in addition to the foregoing rights, have the right, upon ten days' notice, to revoke the authorization to conduct the applicable commercial service at public airports.

The permittee shall, on or before the (d) twentieth day of the succeeding month, file with the director, on forms prescribed by the director, a report of its gross receipts for the previous month certified to by a qualified representative of the permittee; the certifier shall state that it has examined the books, records, and other evidence of the gross receipts of the permittee for the period reported and that to its knowledge the statement is true and correct. The statement shall be in such form and contain such details and breakdowns as the State may require. Payment of requisite fees shall be submitted with the report. Any amount payable which shall not have been paid when due shall bear interest at the rate of one percent per month.

Without prejudice and in addition to any (e) other remedies the State may have for such default, if the permittee shall fail to promptly furnish any monthly report, the State may have such report prepared by an accountant to be selected by the State, at the expense and on behalf of the permittee. The permittee shall furnish to such accountant all records requested for the purpose of preparing such reports, and the permittee shall pay to the State all expenses incurred by the State in securing such reports. Furthermore, the State may select procedures which . would produce a reasonable gross receipts expectation, and assess percentage fees based upon gross receipts so computed. In the event that records have not been

prepared and kept in accordance with this chapter, the State shall, in addition to all other payments required herein, be entitled to demand and receive an additional payment of ten percent of the gross receipt fee for the periods involved. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-6 Insurance. (a) The permittee shall maintain and keep in force adequate insurance as determined by the director to protect both the department and the permittee against claims for public liability and property damage. The following types of insurance are required:

- Automobile liability insurance. To provide coverage against all losses arising out of the person's operation of the registered vehicles, including motorized passenger carts, on airport premises and resulting in injury to persons or damage to property. (Commercial photography and greeting services for hire permittees are exempt from this requirement.)
- (2) Comprehensive general liability policy; owners, landlords and tenants or manufacturers and contractors liability policy. To provide coverage against claims arising out of the person's operation on airport premises resulting in injury to persons or damage to property.

(b) The permittee shall provide the department with a certificate of insurance naming the permittee as the insured and the department as additional insured to the extent of liability arising out of the named insured's operations at the public airport with a thirty day advance notice of material changes in coverage or cancellation. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-7 Entry to air operations area. Except as may be authorized by the director, no person providing commercial services at any public airport shall be permitted entry into the air operations area. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-12) §19-20.1-8 <u>Airport activity</u>. (a) Each permittee's activity shall be limited to the area designated by the director. The director may change the designated areas when such action is deemed necessary and in the best interest of safety to persons or property.

- (b) The permittee shall:
- Maintain its designated activity area in a safe and clean condition in compliance with all applicable statutes, laws, ordinances, rules and regulations;
- (2) Be liable for the fair value of any janitorial or maintenance service for cleaning or repairing airport premises necessitated by the permittee's failure to properly, and adequately maintain its designated area;
- (3) Conduct business in an orderly, courteous and businesslike manner;
- (4) Be suitably dressed or uniformed;
- (5) Furnish service on a fair, equal and not unjustly discriminatory basis to all users thereof, and will charge fair, reasonable and not unjustly discriminatory prices for each unit of service; provided that the permittee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers; and
- (6) Wear the identification badge (issued under this chapter) in plain sight while at the airport.

(c) The following provisions shall apply to permittees who operate vehicles under a permit authorized by this chapter:

(1) The permittee shall keep all vehicles and equipment used at any public airport in good mechanical condition, clean and suited for their designated use. The department may disappove the use by the permittee of any vehicle or equipment which the department deems unsafe or unsuitable for its designated use.

- (2) All vehicles operating under a permit authorized by this chapter shall be licensed by the state public utilities commission or appropriate governmental regulatory agency, if so required, and at all times display a current safety inspection sticker and current evidence of licensing by the applicable regulatory agency of the government.
- The department shall issue decals which shall (3) be placed by the permittee on those vehicles utilized at a public airport that meet the requirements of the department. No vehicle shall be used to provide commercial services authorized by this chapter at any public airport without a decal issued by the department. Vehicles shall be parked only at locations designated by the director for the permitted activity. Vehicles issued decals shall not be used at any public airport for any purpose other than the activity authorized by the permit. [Eff MAY - 4 2002 1 (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-9 <u>Revocation of permit; termination</u>. A permit issued under this chapter may be revoked by the department for violation of this chapter, upon ten days prior written notice. The permit may be terminated without cause by the department or by the permittee upon thirty days prior written notice. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) . {Imp: HRS §261-7}

§19-20.1-10 <u>Subordination to sponsor's assurance</u> agreement. A permit shall be subordinate and subject to the terms and conditions of any sponsor's assurance agreement executed between the State and the United States of America, which is in force during the term of the permit. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-11 Indemnification and hold harmless. The permittee shall indemnify, defend and hold harmless the department and the State from any action

or claim for compensation arising out of the use of the permit or the airport. [Eff MAY -4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-12 Severability. The provisions of this chapter are declared to be severable and if any portion or the application thereof is held to be invalid for any reason, the validity of the remainder of this chapter shall not be affected. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-13 <u>Enforcement</u>. This chapter may be enforced by police officers or any person deputized pursuant to section 261-17, Hawaii Revised Statutes. [Eff ] (Auth: HRS §261-12) (Imp: HRS §261-17)

§19-20.1-14 Penalty. Penalties for violations of this chapter shall be as set forth in section 261-21, Hawaii Revised Statutes. [Eff MAY -4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-21)

#### SUBCHAPTER 2

#### AIRCRAFT GROUND HANDLING

§19-20.1-15 Scope. The special provisions set forth in this subchapter shall apply to aircraft ground handling services at public airports. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-16 <u>Definitions</u>. Unless the context clearly indicates otherwise, as used in this chapter: "Aircraft ground handling services" shall include the following services performed for arriving or departing aircraft:

 Ramp services, including but not limited to, providing passenger or crew stairs, ground power units, baggage, mail and cargo loading and unloading, air start units, aircraft pushback and towing, air conditioning or heating equipment, and fueling;

- (2) Aircraft cabin cleaning, including, but not limited to, interior cleaning service, lavatory service, and drinking water service;
- (3) Passenger services, including, but not limited to, reservations, ticketing, seat selection, passenger check-in, document processing, passenger boarding, and VIP lounge services;
- (4) Cargo handling, including, but not limited to, warehousing, document processing, cargo buildup or breakdown, loading or unloading, and transportation;
- (5) Aircraft maintenance, including, but not limited to, maintenance, and preventive maintenance; and
- (6) Aircraft flight planning and flight dispatch service.

"Aircraft ground services operators" means all persons authorized to perform aircraft ground handling services at public airports and includes permittees, airline lessees, and airport lessees.

"Airport lessee" means any person other than an airline lessee that has entered into a lease with the department for the use of land or facilities at a public airport. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-17 Fee. Any person authorized to provide aircraft ground handling services shall, in consideration of using state facilities for conducting business, pay the department an annual administrative expense fee of \$100. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-18 Exemption. Airport or airline lessees
authorized by their lease to provide aircraft ground
handling services for others at a public airport are
exempt from the permit and fee requirements under this
chapter. [Eff MAY - 4 2002 ] (Auth: HRS §261-12)
(Imp: HRS §261-7)

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§19-20.1-19 Statement of contracted services. The permittee shall provide to the department upon request a statement certified by the serviced airline that a contract for aircraft ground handling services presently exists. This chapter shall become a part of all such contracts to which it applies, and shall be attached to the contracts so that contracting parties are aware of the rights, duties, and responsibilities of the permittee. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

#### SUBCHAPTER 3

#### BAGGAGE PICKUP AND DELIVERY

§19-20.1-20 Scope. The special provisions set forth in this subchapter shall apply to baggage pickup and delivery services at public airports. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

\$19-20.1-21 Definitions. Unless the context clearly indicates otherwise, as used in this chapter:

"Baggage pickup and delivery services" means (1) the prearranged pickup of unaccompanied baggage at a public airport and delivery to a destination outside the airport for the benefit of an arriving passenger, or another on behalf of the passenger or (2) the prearranged delivery of unaccompanied baggage from a location outside a public airport to a certain location at or in a public airport which is designated for that purpose by the airport manager for a departing passenger, or for another on behalf of a departing passenger, or (3) the prearranged transfer of unaccompanied baggage from public airport baggage claim areas to curbside or other areas within the public airport, or (4) the prearranged transfer of unaccompanied baggage from curbside or other areas within the public airport to check-in counters or other areas within the public airport where transfer services were arranged for in advance by the passenger or another on behalf of the passenger.

"Unaccompanied baggage" means that baggage which is unclaimed by the passenger at a public airport but for which prior arrangements have been made (1) by or on behalf of an arriving passenger for the pickup of such baggage from the public airport and delivery to a destination outside the public airport, (2) by or on behalf of a departing passenger for the delivery of such baggage from a location outside the public airport to a certain location at or in the public airport which is designated for that purpose by the airport manager, (3) to transfer such baggage from public airport baggage claim areas to curbside or other areas within the public airport, or (4) to transfer such baggage from curbside or other areas within the public airport to check-in counters or other areas within the public airport. May - 4 2002 (Auth: HRS §261-12) ] Eff (Imp: HRS §261-7)

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§19-20.1-22 Fees. Any person providing baggage pickup and delivery services in or at a public airport shall, in consideration of using state airport facilities for conducting business, pay to the department the following fees:

- For each public airport at which baggage pickup and delivery services are provided, an annual administrative expense fee of \$100.
- (2) A percentage fee equal to three and one-half percent of the monthly gross receipts derived by the permittee, from or in connection with providing baggage pickup and delivery services in or at any public airport. The permittee's gross receipts shall include all consideration or compensation, of any kind or nature whatsoever, paid by passengers, customers and clients to the permittee or to any person who is employed by or has a working arrangement with the permittee for providing baggage pickup and delivery services.
- (3) An annual identification badge fee of \$5 per badge.

(4) An annual registration fee of \$50 for each vehicle in excess of five vehicles registered by a permittee at a public airport for baggage pickup and delivery services. [Eff MAY - 4 2002 ]
(Auth: HRS §261-12) (Imp: HRS: §261-7)

§19-20.1-23 <u>Restrictions</u>: (a) The permittee shall:

- Refrain from the use of profanity, boisterous or rough and disturbing behavior or actions, unsafe use of baggage carts or other equipment, and the playing of radios, prerecorded tapes or discs, or other musical instruments or devices in public areas or areas in which the sounds from such activities may intrude upon public areas;
- (2) Not provide any of the services authorized by the permit, including the placement and use of any vehicle or equipment, in such a manner as to disturb other airport tenants or users; and
  - (3) Not solicit gratuities or business in the conduct of baggage pickup and delivery services at public airports.

All business activities conducted by the (b) permittee at any public airport, unless otherwise authorized by the department, shall be limited to those passengers and clients who have made prior . arrangements for baggage pickup and delivery service with the permittee. The permittee shall have evidence of such prior arrangements in the form of schedules, . passenger manifests, or other similar documentation which identifies the passengers and clients, available. for inspection by the director at all times during the period the permittee is engaged in business activities at the public airport, including at the time of all pickups, deliveries and transfers. [Eff MAY - 4 2002 1 (Auth: HRS §261-12) (Imp: HRS §261-7)

#### SUBCHAPTER 4

### COMMERCIAL PHOTOGRAPHY

§19-20.1-24 Scope. The special provisions set forth in this subchapter shall apply to commercial photography services at public airports. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-25 Definition. Unless the context clearly indicates otherwise, as used in this chapter: "Commercial photography" means the taking of still or motion pictures of persons and things by a person for (1) sale for a monetary or any other valuable consideration, or (2) for any other commercial purpose. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-26 Fees. Any person providing commercial photography services in or at a public . airport shall, in consideration of using state airport facilities for conducting business, pay to the department the following fees (as applicable):

- For each public airport at which commercial photography services is provided an annual administrative expense fee of \$100;
- (2) An annual identification badge fee of \$5 per badge;
- (3) A percentage fee equal to ten percent of the person's monthly gross receipts derived from providing commercial photography services at public airports; and
- (4) A daily fee of \$100 in advance for persons providing commercial photography services on a short-term basis. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-27 <u>Soliciting prohibited</u>. To solicit, offer and provide commercial photography to any person other than to any person for whom commercial

photography has been arranged in advance, as provided above, is prohibited. [Eff MAY -4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-28 <u>News media exempt</u>. Commercial photography as defined herein shall not apply to representatives of newspapers, magazines, television stations, or other news media. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

#### SUBCHAPTER 5

### GREETING SERVICES FOR HIRE

§19-20.1-29 Scope. The special provisions set forth in this subchapter shall apply to greeting services for hire at public airports. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-30 Definition. Unless the context clearly indicates otherwise, as used in this chapter: "Greeting services for hire" means the service of providing, on behalf of or at the request of another person, meeting, welcoming, receiving, salutation, meeting with salutation, farewell or departure services, with or without the bestowal of leis, floral arrangements or other gifts, to airline passengers. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

\$19-20.1-31 Fees. Any person providing greeting services for hire in or at a public airport shall, in consideration of using state airport facilities for conducting business, pay to the department the following fees:

 For each public airport at which greeting services for hire are provided an annual administrative expense fee of \$100;

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- (2) An annual identification badge fee of \$5 per badge; and
- (3) A percentage fee equal to three percent of the person's monthly gross receipts derived from providing greeting services for hire at a public airport. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-32 Soliciting prohibited. To solicit, offer and provide greeting services for hire to any person other than to any person for whom greeting services had been arranged in advance, as provided, is prohibited. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

#### SUBCHAPTER 6

#### IN-FLIGHT CATERING

§19-20.1-33 <u>Scope</u>. The special provisions set forth in this subchapter shall apply to in-flight catering services at public airports. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-34 Definition. Unless the context
clearly indicates otherwise, as used in this chapter:
 "In-flight catering services" means the delivery

of prepared and packaged food beverages at any public airport for consumption aboard an aircraft while in flight. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

\$19-20.1-35 Fees. Except for the concessionaires and airline lessees authorized to provide in-flight catering services at public airports, any person providing in-flight catering services in or at public airports shall, in consideration of using state airport facilities for conducting business, pay to the department the following fees:

- An annual administrative expense fee of \$100 in advance of providing in-flight catering services at a public airport; and
- (2) A percentage fee equal to three and one-half per cent of its monthly gross receipts derived from providing in-flight catering services at public airports. [Eff MAY - 4 2002 ] Auth: HRS §261-12) (Imp: HRS §261-7)

### SUBCHAPTER 7

#### MERCHANDISE DELIVERY

§19-20.1-36 <u>Scope</u>. The special provisions set forth in this subchapter shall apply to merchandise delivery services at public airports. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-37 <u>Definitions</u>. Unless the context clearly indicates otherwise, as used in this chapter: "Merchandise" means items, such as fresh fruits, flowers, candies, meat products and ice cream, which are:

- Sold to an airline passenger or the passenger's agent at a location other than a public airport; and
- (2) Delivered to that passenger or that passenger's agent at the airport by the seller or the seller's agent.

Duty free or in-bond goods are specifically excluded from this definition.

"Piece" means the unit in which the merchandise is packaged for an individual airline passenger.

"Time of delivery" means the time the merchandise is delivered into one of the areas designated by the director. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-38 <u>Fees</u>. Any person providing merchandise delivery services in or at a public airport, in consideration of using state airport facilities for conducting business, shall pay the following fees:

- An annual administrative expense fee of \$100 for each public airport at which merchandise is delivered.
- (2) Except for the first vehicle, an annual fee of \$200 for each vehicle thereafter upon registration of the vehicle with the department and issuance of decal pursuant to this subchapter.
- (3) A monthly fee based on the use of public airport facilities during the month. The monthly fee shall be:
  - (A) Equal to the total number of pieces of merchandise delivered during the month times 25 cents; in other words, 25 cents for each piece of merchandise delivered during the month.
  - (B) Paid on or before the twentieth day of the succeeding month.
- (4) An annual identification badge fee of \$5 per badge. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-39 Monthly delivery report. (a) The permittee shall submit, along with the payment of the monthly fee required under this subchapter, a delivery report for each calendar month, on or before the twentieth day of the succeeding month.

- (b) The monthly delivery report shall include:
- (1) A listing of every delivery made during the month in chronological order; this listing shall provide the following information for each delivery:
  - (A) Date of delivery;
  - (B) Time of delivery; and
  - (C) Number of pieces of merchandise.
- (2) The total number of pieces of merchandise delivered during the month.

(c) The permittee shall be subject to penalties, including revocation of permit, if any false information is provided on the monthly delivery report. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7) §19-20.1-40 <u>Controls</u>. (a) The department shall conduct regular inspections of permittee activities to help ensure:

- (1) Accurate reporting of the number of pieces of merchandise delivered; and
- (2) Compliance with the provisions of this chapter.

(b) The department shall, upon reasonable notice, be given access to any of the permittee's records, books or documents to verify reports submitted by the permittee. [Eff MAY - 4 2004] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-41 <u>Designated areas</u>. (a) The permittee shall deliver merchandise only to areas designated by the director.

(b) The permittee shall be allowed to keep the merchandise in the designated areas for a maximum of four hours starting from the time the merchandise is placed in the designated area. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-42 Identification of merchandise. (a) The merchandise for each delivery made at a public airport shall be clearly and conspicuously marked with the:

(1) Permittee's name; and

(2) Time of delivery.

(b) The merchandise may be marked individually or as a group as long as it is readily identifiable at all times while it is at the airport.

(c) The permittee shall have an authorized representative, wearing the identification badge issued under this chapter, present at all times next to the merchandise, overseeing the merchandise as long as the merchandise is at the airport.

[Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7) §19-20.1-43 <u>Safety and security</u>. (a) In order to help ensure the public health, safety and airport security, any merchandise shall be removed to a storage area by authorized department personnel if:

- (1) The merchandise is unclaimed after four hours from the time of delivery; or
- (2) The merchandise is left unattended for any amount of time in violation of section 19-20,1-42.

(b) Any merchandise not claimed after two days in storage may be summarily disposed of by the department without notice to the permittee.

(c) The cost of removal, storage or disposal of merchandise shall be assessed to the permittee. The proceeds, if any, from the sale or disposal of any unclaimed merchandise shall be used to offset the cost of removal, storage and disposal and the balance remaining shall be payable to the permittee or passenger upon proof of entitlement thereto. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

\$19-20.1-44 Unauthorized storage. Permittees shall not keep, place, or store hand trucks, vehicles, carts, or any other equipment or supply item in any area of a public airport except in those locations or spaces specifically prescribed for such use or activity. Any improper placement or storage shall result in an assessment of a \$10 fine for each item or article which is improperly placed or stored, or in the seizure of the item or article at the owner's risk and expense, plus applicable storage and service fees resulting therefrom, or in both a fine and seizure. Upon seizure of any item or article, the department shall send a written notice by registered or certified mail, with return receipt, to the owner of the item or article at the address on record with the department if the owner is known. The notice shall contain a brief description of the item or article, the location of seizure, and intended disposition of the property if not claimed within ten days after the mailing of the notice. If the owner is not known or cannot be located, the item or article shall be held for fortyfive days from date of seizure after which time it shall be disposed of as unclaimed lost property. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

#### SUBCHAPTER 8

### · PORTER SERVICES

§19-20.1-45 <u>Scope</u>. The special provisions set forth in this subchapter shall apply to porter services at public airports. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-46 Definitions. Unless the context clearly indicates otherwise, as used in this chapter: "Accompanied baggage" means baggage which is claimed by a passenger at a public airport.

"Porter" means one who performs porter services.

"Porter services" means the carrying of baggage for passengers at public airports and other services incidental to porterage generally rendered by porters in and about air transportation terminals, including but not limited to:

- The carrying of baggage from baggage claim areas to curbside or to other areas within the airport as requested by the passenger;
- (2) The loading of baggage aboard conveyance used by the passenger in departing the airport;
- (3) The carrying of baggage from curbside to the check-in counters or to other areas within the airport as requested by the passenger; and
- (4) The transporting of handicapped passengers by motorized carts to and from gate areas.

"Porterage" with respect to porter services shall generally mean the handling of accompanied baggage whereas "porterage" with respect to baggage pickup and delivery services shall generally mean the handling of unaccompanied baggage. "Unaccompanied baggage" means baggage which is not claimed by a passenger at a public airport but for which prior arrangements have been made:

- For pickup at a public airport and delivery to a destination off the airport for arriving passengers; or
- (2) For delivery to a point at a public airport. designated by the director for departing passengers. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-47 Requirements to obtain permit. To obtain the permit under this chapter, a person must:

- Pay the fees prescribed by this subchapter; and
  - (2) Have an existing written contract with an airline to perform porter services. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-48 Fees. Except for airline lessees authorized to provide porter services in their leases with the department, no person shall provide porter services in or at a public airport without paying the department the following fees:

- (1) For each public airport at which porter service is provided, an annual administrative expense fee of \$100; and
- (2) An annual identification badge fee of \$5 per badge. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-49 Unauthorized storage. The permittee shall not keep, place, park, or store hand trucks, baggage carts, motorized passenger carts, or any other equipment or supply item in any area of a public airport except in those locations or spaces specifically prescribed for that use or activity. Any improper placement or storage shall result in an assessment of a \$10 penalty for each item or article which is improperly placed or stored, or in the seizure of the item or article at the owner's risk and expense, plus applicable storage and service fees resulting therefrom, or in both a penalty and seizure. Upon seizure of any item or article, the department shall send a written notice by registered or certified mail, with return receipt, to the owner of the property at the address on record with the department. The notice shall contain a brief description of the item or article, the location of seizure, and intended disposition of the property if not claimed within ten days after mailing of the notice. If following reasonable attempts by the department, the owner cannot be located, the item or article shall be held for forty-five days from date of seizure after which time it shall be disposed of as unclaimed lost property. [Eff MAY - 4 2002 -1 (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-50 Motorized passenger carts. (a) The department shall issue decals which shall be placed on motorized passenger carts approved for use at a public airport. No carts shall be used to provide porter services at any public airport without a decal issued by the department. Carts shall be operated only on routes and locations designated by the director. Carts issued decals shall not be used on the airport for any purpose other than the transport of handicapped passengers and their escorts to and from gate areas.

- (b) No motorized passenger cart shall be operated:
- In a careless or negligent manner or in disregard of the rights and safety of others;
- (2) Without due caution or circumspection, or at a speed or in a manner which endangers or is likely to endanger persons or property;
- (3) While the operator thereof is under the influence of intoxicating liquor, narcotic, or habit forming drug; and
- (4) If the vehicle is so constructed, equipped, loaded or in such other condition as to endanger or be likely to endanger persons or property.

(c) The permittee shall be liable for any injury or damage to persons or property resulting from or attributed to the use of the carts at public airports. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-51 Soliciting prohibited. No porter shall solicit tips from passengers. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-52 Statement of contracted services. The permittee shall provide to the department upon request a statement certified by the serviced airline that a contract for porter services presently exists. This chapter shall become a part of all such contracts so that contracting parties are aware of the rights, duties, and responsibilities of the permittee. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-53 <u>Airline lessees</u>. (a) With the exception of sections 19-20.1-3 and 19-20.1-48, this chapter shall apply to airline lessees who provide their own porter services.

(b) Airline lessees who provide porter services to other airlines shall be subject to this chapter. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

### SUBCHAPTER 9

#### PREARRANGED GROUND TRANSPORTATION

§19-20.1-54 <u>Scope</u>. The special provisions set forth in this subchapter shall apply to prearranged ground transportation services at public airports. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-55 <u>Definitions</u>. Unless the context clearly indicates otherwise, as used in this chapter: "Hotel" includes motel.

"Operator" includes any person who is properly and physically qualified to operate and control any motor or other vehicle in connection with any ground transportation service provided at a public airport by a permittee under this chapter. The operator may be a permittee itself or a qualified employee of the permittee.

"Prearranged ground transportation services" includes the providing for hire of a motor vehicle, including off-airport rent-a-car vehicles, at any public airport for the purpose of transporting the hirer of, or passenger in, such motor vehicle and personal property where such hire or transportation was contracted or arranged for by the hirer, passenger, or another on behalf of the hirer or passenger, in advance of the hirer or passenger's arrival at the public airport or, upon or after his arrival at the public airport, by communicating with an operator whose place of business is situated outside the public airport, for ground transportation services to be performed, at least in part, at the public airport.

Prearranged ground transportation services also include passenger transportation services, tours, and courtesy car services for customers and guests upon vehicles owned or leased by the operators even if the services are provided gratuitously or may be an incidental part of another service.

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Prearranged ground transportation services do not include the right to solicit, offer, and provide ground transportation services for hire to any person other than to persons for which ground transportation services had been arranged in advance.

"Taxi or taxicab service" includes the service of providing a motor vehicle for hire by the public at, on, or upon a public airport, which motor vehicle shall have a driver other than the hirer and be used for the purpose of transporting the hirer and incidental personal property to a destination and over a route controllable by a hirer. [Eff MAY - 4 2002] (Auth: HRS §261-12)

[Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-56 Fees. Persons authorized to provide prearranged ground transportation services at public airports shall, in consideration of using state airport facilities for conducting business, pay the following fees as applicable:

- (1) Off-airport rent-a-car service.
  - (A) An annual administrative expense fee of \$100 in advance.
  - (B) An annual fee of \$20 for each offairport rent-a-car vehicle in the permittee's fleet as of October 1 of each year.
    - (C) An annual registration fee of \$250 for each courtesy vehicle used for transportation of customers to and from any public airport.
  - (2) Courtesy vehicle service other than off
    - airport rent-a-car or hotel firms.
      - (A) An annual administrative expense fee of \$250 in advance.
    - (B) An annual registration fee of \$250 for each courtesy vehicle used for transportation of customers to and from any public airport.
  - (3) Taxi, bus, limousine and stretchout.
    - (A) An annual administrative expense fee of \$100, in advance, per permittee

providing these prearranged ground transportation services at any public airport.

- (B) An amount equal to the following percentages of the monthly gross receipts which the operator derives from providing these prearranged ground transportation pickup services at the public airports listed below.
  - (i) Seven percent at Honolulu International Airport.
  - (ii) Three percent at
     public airports
     other than Honolulu International
     Airport.
- (4) Hotel courtesy vehicles.
  - Prearranged ground transportation services between a public airport and a hotel, provided by the hotel for its guests upon vehicles owned or leased by the hotel shall be charged:
    - (A) An annual administrative expense fee of \$250 in advance.
    - (B) An annual registration fee of \$250 for each courtesy vehicle used for transportation of customers to and from any public airport.
    - (C) An annual fee of \$2 per sleeping room for rental by the hotel. [Eff MAY - 4 2002 ]
      - (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-57 <u>Exemptions</u>. The director may, in the public interest, exempt all persons providing ground transportation services at certain public airports from the payment of the fees required under this subchapter. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-58 <u>Taxi services</u>. The director reserves the right to revoke any non-exclusive privilege of providing taxi service at any public airport, except prearranged taxi service, and grant an exclusive taxi service concession to any person in the manner prescribed by section 102-2, Hawaii Revised Statutes. [Eff MAY - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-59 <u>Signs</u>. No person shall display any sign that extends more than six inches above the roof, hood, or truck of any motor vehicle used to provide ground transportation at public airports. Flashing lights and audible devices, other than that required by safety ordinances and regulations are prohibited. The display of any rates or fees on motor vehicles is also prohibited. [Eff MAY =  $4\ 2002$  ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-60 <u>Restrictions</u>. (a) Permittees and operators shall not solicit passengers or fares on airport premises. Pickup shall be limited to those passengers and clients who have made prior arrangement for the ground transportation service provided by the permittee. The permittee, and its employees, agents and operators shall have evidence of such prior arrangements in the form of schedules, passenger manifests or other similar documentation which identifies the passengers and clients, available for inspection by the director at all times during the period the permittee is engaged in business activities at the public airport, including at the time of all pickups.

(b) Permittees shall not use dispatchers, agents, customer service assistants, operators, employees or any other persons who have a working arrangement with the permittee to engage in any effort to solicit or obtain ground transportation business on any public airport premises. [Eff MAX - 4 2002 ] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-20.1-61 <u>Records of off-airport rent-a-car</u> <u>permittees</u>. Permittees who provide off-airport renta-car ground transportation services in or at public airports shall be obligated to maintain a record and original source documents which shall account for all of the vehicles in the permittee's fleet as of October 1 each year, segregated by airport districts. The record, including original source documents, shall be kept for three years in the State following the end of the permit year. The State shall be granted access at all reasonable times to all such records and documents and may make or cause to be made a complete audit to verify the reasonableness of the reported number of vehicles in the permittee's fleet as of October 1 each year. In the event that records and original source documents have not been kept in accordance with this provision, the State, shall in addition to other payments required by this chapter, be entitled to demand and receive an additional payment of ten percent of the total amount payable by the off-airport rent-a-car ground transportation service permittee to the State under this subchapter. MAY - 4 2002 ) (Auth: HRS §261-12) leff

(Imp: HRS §261-7)

#### DEPARTMENT OF TRANSPORTATION

The repeal of Chapters 19-20, 19-21, 19-22, 19-23.2, 19-24, 19-25, 19-29 and 19-32, and the adoption of Chapter 19-20.1, Hawaii Administrative Rules, noted on the Summary Page dated March 26, 2002, were approved on March 26, 2002, following public hearings held on February 26 and 27, 2002, after public notice was given in the Honolulu Star-Bulletin, Maui News, MidWeek, Hawaii Tribune-Herald, West Hawaii Today and Garden Island on January 21, 2002.

The repeal of Chapters 19-20, 19-21, 19-22, 19-23.2, 19-24, 19-25, 19-29 and 19-32, and the adoption of Chapter 19-20.1, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

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BRIAN K. MINAAI

APPROVED:

BENJAMÍN J. CAYETANO Governor State of Hawaii

Date:

APPROVED AS TO FORM:

Deputy Attorney General

Filed: APR 24 200

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occupied the land under revocable permit[, as illustrated by the fol- lowing example: if a lessee had occupied the land under revocable permit for ten continuous years, the twenty-five per cent premium shall be part of the annual lease rent for the first ten years of the lease.] <u>not to exceed four years</u> .	2. Adding a new section to read as follows: "SECTION 7A. The department of land and natural resources shall estab- lish policies to expedite the completion of lease negotiations under this Act. by the sunset date of this Act."	3. Amending section 7 to read as follows: "SECTION 7. This Act shall take effect on July 1, 1988, and shall be repealed on July 1, [1994.]	SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored. ¹	SECTION 7. This Act shall take effect upon approval; provided that sections 1, 2, 3, and 4 shall take effect on July 1, 1994.	(Approved June 9, 1994.) Note	1. Edited pursuant to HRS \$23G-16.5.	ACT 163 S.B. NO. 3292	A Bill for an Act Relating to Airport Taxi Service. Be It Enacted by the Legislature of the State of Hawaii:	SECTION 1. The legislature finds that Hawaii's airport system plays a critical role in the State's visitor-based economy by facilitating the movement of passengers to and from the State and between islands. As the main point of entry to Hawaii, the State's airports are the first places to which visitors are exposed, and present the first opportunity to convey a strong impression of Hawaii's assets	to visitors. An important aspect of any efficient airport operation is a well-managed, reasonably-priced ground transportation system that includes a sound plan for reasonably-prices. If visitors have favorable impressions of airport-based taxis, taxicab services. If visitors have favorable inpressions of airport-based taxis, taxicab services. If visitors have favorable to keep transportation costs down they will return to visit again, thereby helping to keep transportation costs down	in the long run. Taxis and taxicab drivers are among the first people in flawari to in the long run. Taxis and taxicab drivers are among the first people in that drivers which first-time visitors are exposed. Because of this, it is essential that drivers provide top-quality service by using clean, new vehicles; treating visitors courte- provide top-quality service by using clean, new vehicles; treating visitors courte- provide top-quality service by using clean, new vehicles; treating visitors courte- provide top-quality service hybrid the Aloha Spirit. The type of service received upon first ously, and demonstrating the Aloha Spirit.	The legislature further finds that a sound, comprehensive master plan would give taxi drivers the necessary incentives to enhance taxi service, thereby	improving the Hawaiian experience for out-of-state visitors, and increasing are percentage of returning visitors.
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ACT 164	The purpose of this Act is to appropriate funds to the department of trans- portation to develop a master plan that will help create an economical and efficient airport taxi system with resulting benefits for taxi customers, taxi opera- tors, and Hawaii's visitor-based economy.	SECTION 2. There is appropriated out of the airport revenue fund of the State of Hawaii the sum of \$75,000, or so much thereof as may be necessary for fiscal year 1994-1995, for the development of a master plan for the economical and efficient management of airport taxicab service. This plan shall be developed by the department of transportation as follows:	(1) The department of transportation shall conduct a thorough review of airport taxi service for its entire statewide system of airports and formulate a management plan that addresses the issues set forth in this A or.	<ul> <li>(2) Airport taxi permit fees, if any, shall be calculated based upon a rational analysis of the costs to operate and administer the airport taxi system and shall not exceed those costs;</li> </ul>	<ul> <li>(3) The department shall consult with and involve members of the local taxi industry as well as technical experts in the field at various strategic points during the development of the plan; and</li> <li>(4) The department shall submit a report on a proposed master plan to the legislature no later than twenty days prior to the convening of the regular session of 1995.</li> </ul>	SECTION 3. The sum appropriated shall be expended by the department of transportation. Any unexpended or unencumbered balance of any appropriation made by this Act as of the close of business on June 30, 1995 shall lapse into the airport revenue fund.	SECTION 4. This Act shall take effect upon approval. (Approved June 9, 1994.)	ACT 164 H.B. NO. 929	A Bill for an Act Relating to Limitation of Actions.	Be It Enacted by the Legislature of the State of Hawaii:	SECTION 1. Section 657-8, Hawaii Revised Statutes, is amended to read as follows:	<b>"%657-8 Limitation of action for damages based on construction to improve real property.</b> (a) No action to recover damages for any injury to property, real or personal, <u>or for bodily injury or wrongful death</u> , arising out of any deficiency or neglect in the planning, design, [suretyship, manufacturing and supplying of materials.] construction, supervision and administering of construction, and observation of construction relating to an improvement to real property shall be commenced more than two years after the cause of action has accrued, but in any event not more than ten years after the date of completion of the improvement.	
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