
A BILL FOR AN ACT

MAKING VARIOUS HOUSEKEEPING AMENDMENTS TO VOLUME 11 OF THE
HAWAII REVISED STATUTES FOR THE PURPOSE OF CORRECTING
ERRORS AND REFERENCES, AND CLARIFYING LANGUAGE.

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

1 SECTION 1. Section 476-1, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending the definition of "credit sale contract" or
4 "contract" to read:

5 "Credit sale contract" or "contract" means any agreement,
6 including a conditional sale contract, a retail installment
7 contract, or any other form of instrument ~~[7]~~ evidencing an
8 obligation to pay the price of goods, services, or both,
9 purchased in a credit sale, either:

10 (1) ~~[by]~~ By payment thereof over a period of time subject
11 to a finance charge ~~[or 7]~~; or

12 (2) ~~[pursuant]~~ Pursuant to a written agreement, subject to
13 payment in more than four installments not including a
14 down payment,

15 ~~[and in either case]~~ whether or not the contract contains a
16 title retention provision. ~~[This term]~~ "Credit sale contract"
17 includes any contract for the bailment or leasing of goods



1 (unless terminable without penalty at any time by the bailee or
2 lessee) by which the bailee or lessee contracts to pay as
3 compensation a sum substantially equivalent to or in excess of
4 the value of the goods and services involved and by which it is
5 agreed that the bailee or lessee is bound to become, or has the
6 option of becoming, for no additional consideration or for
7 nominal consideration, the owner of the goods upon full
8 compliance with the terms of the contract."

9 2. By amending the definition of "goods" to read:

10 ""Goods" [~~include~~] includes all things which are movable at
11 the time the credit sale is entered into or which will be
12 movable when they thereafter come into existence or which are or
13 will be fixtures (sections 490:9-334 and 490:9-604) [~~but~~
14 ~~except~~]. Except as provided in this paragraph, "goods" does not
15 include money, documents, instruments, accounts, chattel paper,
16 general intangibles, or minerals or the like (including oil and
17 gas) before extraction. "Goods" [~~include~~] includes standing
18 timber which is to be cut and removed under a conveyance or
19 contract for sale, the unborn young of animals, growing crops,
20 and merchandise certificates or coupons, issued by a credit
21 seller, to be used in the face amount in lieu of cash in
22 exchange for goods sold by such a seller."



1 SECTION 2. Section 476-8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§476-8 Insurance provisions. (a) The amount, if any,
4 charged for insurance[7] shall not exceed the premiums
5 chargeable in accordance with rate filings made with the
6 [~~commissioner of insurance~~] state insurance commissioner under
7 chapter 431 for similar insurance.

8 The seller or holder, if dual interest insurance on the
9 goods is included in a credit sale contract[7] and a separate
10 charge is made therefor, shall within thirty days after
11 execution of the credit sale contract send or cause to be sent
12 to the buyer a policy or policies or certificate of insurance,
13 written by an insurance company authorized to do business in
14 this State, clearly setting forth the amount of the premium, the
15 kind or kinds of insurance, and the scope of the coverage and
16 all the terms, exceptions, limitations, restrictions, and
17 conditions of the contract or contracts of insurance.

18 The buyer of goods under a credit sale contract may
19 purchase [~~such~~] any required insurance from [~~a~~] an insurance
20 producer of the buyer's own selection, and in an insurance
21 company of the buyer's own selection authorized to do business
22 in this State; provided that the seller or holder shall have the



1 right for reasonable cause to disapprove of the insurance
2 company selected by the buyer to underwrite the insurance.

3 **(b)** In any credit sale contract for the sale of a motor
4 vehicle where insurance is contracted for as a part of the sale,
5 and the insurance does not include public liability insurance
6 for bodily injury and property [~~damages,~~] damage, the contract
7 shall contain, on the same page as the disclosures therein
8 concerning insurance, a notice substantially similar to the
9 following:

10 "THIS DOES NOT INCLUDE INSURANCE ON YOUR LIABILITY FOR
11 BODILY INJURY OR PROPERTY DAMAGE. IT DOES NOT MEET THE
12 REQUIREMENTS FOR PROOF OF FINANCIAL RESPONSIBILITY UNDER HAWAII
13 LAW."

14 **(c)** If any [~~such~~] insurance policy or certificate is
15 canceled, the unearned insurance premium refund received by the
16 holder of the contract shall at the option of the holder either
17 be credited to the final maturing installments of the credit
18 sale contract or be paid to the buyer, except to the extent
19 applied toward payment for similar insurance protecting the
20 interests of the buyer and holder of the contract or either of
21 them."



1 SECTION 3. Section 477E-2, Hawaii Revised Statutes, is
2 amended by amending the definition of "creditor" to read as
3 follows:

4 ""Creditor" means any bank; savings and loan association;
5 trust company; financial services loan company [~~or small loan~~
6 ~~company~~]; credit union; mortgage banker, broker, or solicitor;
7 pawnbroker; mutual benefit society or fraternal benefit society;
8 debt adjuster; the issuer of a credit card as defined in section
9 708-800; any person who initiates, extends, renews, or continues
10 loans of money or credit; any person who regularly arranges for
11 the initiation, extension, renewal, or continuation of a loan of
12 money or credit; or any assignee of an original creditor who
13 participates in the decision to grant, extend, renew, or to
14 continue such loan or credit."

15 SECTION 4. Section 477E-5, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "~~§477E-5 [Civil penalties.]~~ Unfair or deceptive act or
18 practice. Any creditor who violates or attempts to violate any
19 provision of this chapter shall be deemed to have engaged in an
20 unfair [~~and~~] or deceptive act or practice in the conduct of
21 trade or commerce within the meaning of section 480-2."



1 SECTION 5. Section 480-14, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsections (a) and (b) to read:

4 "(a) Whenever the State, any county, [~~or city and county~~]
5 or any of its political subdivisions or governmental agencies,
6 is injured in its business or property by reason of anything
7 forbidden or declared unlawful by this chapter, it may sue to
8 recover threefold the actual damages sustained by it.

9 (b) The attorney general may bring an action on behalf of
10 the State, any county, or any of its political subdivisions or
11 governmental agencies to recover the damages provided for by
12 this section, or by any comparable provisions of federal law."

13 2. By amending subsection (d) to read:

14 "(d) If judgment is in favor of the State, any county, or
15 any of its political subdivisions or governmental agencies under
16 any provision of this chapter, the attorney general or the
17 director of the office of consumer protection shall be awarded
18 reasonable attorney's fees together with the cost of suit;
19 provided further that in any class action lawsuit brought by the
20 attorney general in behalf of indirect purchasers, the attorney
21 general shall in addition be awarded an amount commensurate with



1 expenses reasonably expected to be expended in distribution of
2 damages to the indirect purchasers."

3 SECTION 6. Section 480-20, Hawaii Revised Statutes, is
4 amended by amending subsections (a) and (b) to read as follows:

5 "(a) The attorney general shall enforce the criminal and
6 civil provisions of this chapter. The county attorney [~~of any~~
7 ~~county, the prosecuting attorney and the~~], corporation counsel,
8 or prosecuting attorney of [~~the city and county~~] any county
9 shall investigate and report suspected violations of this
10 chapter to the attorney general.

11 (b) Whenever this chapter authorizes or requires the
12 attorney general to commence any action or proceeding, including
13 proceedings under section 480-18, the attorney general may
14 require the county attorney, [~~prosecuting attorney, or~~]
15 corporation counsel, or prosecuting attorney of any [~~county or~~
16 ~~city and~~] county, holding office in the circuit where the action
17 or proceeding is to be commenced or maintained, to maintain the
18 action or proceeding under the direction of the attorney
19 general."

20 SECTION 7. Section 480-22, Hawaii Revised Statutes, is
21 amended by amending subsections (a) and (b) to read as follows:



1 "(a) A final judgment or decree rendered in any civil or
2 criminal proceeding brought by the State under this chapter
3 shall be prima facie evidence against the defendant in any
4 action or proceeding brought by any other party under this
5 chapter, or by the State, county, [~~or city and county,~~] or any
6 of its political subdivisions or governmental agencies, under
7 section 480-14, against the defendant as to all matters
8 respecting which the judgment or decree would be an estoppel
9 between the parties thereto. This section shall not apply to
10 consent judgments or decrees entered before any complaint has
11 been filed; provided that when a consent judgment or decree is
12 filed, the attorney general shall set forth at the same time the
13 alleged violations and reasons for entering into the consent
14 judgment or decree. No consent judgment or decree that is
15 entered before any complaint has been filed shall become final
16 until sixty days from the filing of the consent judgment or
17 decree or until the final determination of any exceptions filed,
18 as hereinafter provided, whichever is later. During the sixty-
19 day period any interested party covered under section 480-13 may
20 file verified exceptions to the form and substance of the
21 consent judgment or decree, and the court, upon a full hearing



1 thereon may approve, refuse to approve, or may modify the
2 consent judgment or decree.

3 (b) A plea of nolo contendere and a final judgment or
4 decree rendered pursuant to that plea in any criminal action
5 under this chapter shall not be admissible against the defendant
6 in any action or proceeding brought by any other party under
7 this chapter, or by the State, county, ~~[or city and county,]~~ or
8 any of its political subdivisions or governmental agencies,
9 under section 480-14 against the defendant."

10 SECTION 8. Section 480-23, Hawaii Revised Statutes, is
11 amended by amending subsection (b) to read as follows:

12 "(b) No individual shall be criminally prosecuted or
13 subjected to any criminal penalty under this chapter for or on
14 account of any transaction, matter, evidence, or thing
15 concerning which the individual may so testify or produce in any
16 investigation brought by the attorney general pursuant to
17 section 480-18, or any county attorney, ~~[prosecuting attorney,~~
18 ~~or]~~ corporation counsel, or prosecuting attorney of any ~~[county~~
19 ~~or city and]~~ county, when the individual has done so pursuant to
20 an order issued under section 480-23.1~~[7]~~; provided that no
21 individual so testifying shall be exempt from prosecution or



1 punishment for perjury, for giving a false statement, or for an
2 offense involving a failure to comply with the order."

3 SECTION 9. Section 480-23.1, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) A judge of a circuit court or of a district court
6 may, upon application by the attorney general~~[r]~~ or any county
7 attorney, [~~prosecuting attorney, or~~] corporation counsel, or
8 prosecuting attorney of any [~~county or city and~~] county, issue
9 an order requiring the person to testify or to produce a record,
10 document, or other object, notwithstanding the person's refusal
11 to do so on the basis of the person's privilege against self-
12 incrimination. The application shall specify whether the
13 immunity being sought is use immunity as set forth in section
14 480-23.2 or transactional immunity as set forth in section 480-
15 23.3."

16 SECTION 10. Section 480D-2, Hawaii Revised Statutes, is
17 amended by amending the definition of "debt collector" to read
18 as follows:

19 ""Debt collector" means any person, who is not a collection
20 agency~~[r]~~ regulated pursuant to chapter 443B, and who in the
21 regular course of business collects or attempts to collect



1 consumer debts owed or due or asserted to be owed or due to the
2 collector."

3 SECTION 11. Section 480F-6, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) Any person who is not a consumer and is injured by a
6 wilful violation of [~~the~~] this chapter may bring an action for
7 the recovery of damages, a proceeding to restrain and enjoin
8 those violations, or both. If judgment is for the plaintiff,
9 the plaintiff shall be awarded a sum not less than \$1,000 or
10 threefold damages, whichever sum is greater, and reasonable
11 attorneys' fees together with the costs of suit."

12 SECTION 12. Section 481B-1.6, Hawaii Revised Statutes, is
13 amended by amending subsection (e) to read as follows:

14 "(e) It shall be an unlawful practice and a violation of
15 this chapter for any person, in any contest or sweepstakes in
16 which the winning entry or entries are to be determined by a
17 drawing or some other method based on an element of chance[+]
18 to:

19 (1) [~~To promote~~] Promote a contest or sweepstakes in which
20 some or all of the prizes may not be awarded, or to
21 fail to award all prizes or awards offered, unless the
22 person makes the following disclosures to each offeree



1 in writing and in a conspicuous manner prior to the
2 acceptance of the offeree's entry:

3 (A) That some or all of the prizes may not be
4 awarded; and

5 (B) The date or dates on which a determination of
6 winners will be made; [~~and~~] or

7 (2) [~~To offer~~] Offer a prize of real property unless the
8 offeror files and maintains with the director of
9 commerce and consumer affairs a bond in a sum not less
10 than \$10,000, executed by the offeror, and naming the
11 director as the obligee and a surety company
12 authorized to do business in the State as surety. The
13 bond shall be continuous in form and conditioned upon
14 the award of the real property to an eligible
15 participant. The bond shall run to the State for the
16 benefit of any person who failed to receive the real
17 property due to the failure of the offeror to award
18 the real property pursuant to the terms of the offer.
19 The surety may cancel the bond by giving sixty days'
20 notice in writing to the director[~~-~~] of commerce and
21 consumer affairs. Upon cancellation or expiration of
22 the bond, the surety shall remain liable for any



1 claims against the bond for a period of one year;
2 provided that the claim arose while the bond was in
3 effect and the director of commerce and consumer
4 affairs notifies the surety of any claims within
5 ninety days of discovery of the claim."

6 SECTION 13. Section 481B-4, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§481B-4** [~~Penalty.~~] **Remedies.** Any person who violates
9 this chapter shall be deemed to have engaged in an unfair method
10 of competition [~~or~~] and unfair [~~and~~] or deceptive act or
11 practice in the conduct of any trade or commerce within the
12 meaning of section 480-2."

13 SECTION 14. Section 481B-5.5, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) As used in this section, unless the context otherwise
16 requires:

17 "Ancillary charges" includes all charges paid to the
18 merchant that are necessary for the use of the goods for their
19 purchased purpose and all sums paid for agreements for service,
20 warranty, or replacement.

21 "Conspicuous sign" means a sign posted in the merchant's
22 place of business in a location reasonably calculated to bring



1 the sign to the attention of purchasers before a purchaser makes
2 a purchase.

3 "Exchange" means a transaction between a merchant and a
4 purchaser in which a previously purchased item is exchanged for
5 another item.

6 "Full amount of the payment" includes the amount paid for
7 the returned goods, including any ancillary charges or taxes
8 incident to the purchase of the returned goods, and without any
9 deduction for restocking of the merchant's inventory, or for
10 administration of the refund, exchange, or merchandise credit.

11 "Merchandise credit" means the crediting to the purchaser
12 of the full amount of the payment upon return of the goods and
13 allowing the purchaser to purchase goods from the merchant with
14 the merchandise credit, or applying to the purchaser's credit
15 account with the merchant, in the amount of the merchandise
16 credit.

17 "Merchant" means any person engaged in the business of
18 offering goods for sale to purchasers at retail.

19 "Proof of purchase" means a sales slip, receipt, credit
20 card slip, or any other documentation that substantiates the
21 sale of the goods from the merchant and the amount of payment.



1 "Purchaser" means a natural person who is returning goods
2 that were purchased or received primarily for personal, family,
3 or household purposes.

4 "Refund" means the return to the purchaser of the full
5 amount of the payment upon return of the goods, in accordance
6 with this [~~chapter.~~] section.

7 "Repacking and transportation charges" means the charges
8 for repacking, [~~pickup,~~] pick up, and transportation of goods
9 previously delivered, unpacked, and set up by the merchant at
10 the direction of the purchaser.

11 "Return" or "return of goods" means the acceptance by the
12 merchant of goods from a purchaser, whether for refund,
13 merchandise credit, or exchange, and includes the cancellation
14 of a custom or special order before the merchant is obligated to
15 make payment on the order and the cancellation of a layaway."

16 SECTION 15. Section 481B-6, Hawaii Revised Statutes, is
17 amended by amending its title to read as follows:

18 "**§481B-6 Sale of solar energy devices; disclosure**
19 **requirements** [~~penalty~~]."

20 SECTION 16. Section 481B-11, Hawaii Revised Statutes, is
21 amended by amending its title to read as follows:



1 "§481B-11 [~~Refunds; offer of services.~~] Sensitivity-
2 awareness group seminars."

3 SECTION 17. Section 481B-13, Hawaii Revised Statutes, is
4 amended by amending subsection (d) to read as follows:

5 "(d) Any violation of this section shall constitute an
6 unfair [~~and~~] or deceptive act or practice in the conduct of
7 trade or commerce within the meaning of section 480-2."

8 SECTION 18. Section 481C-1, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§481C-1 Definitions. In this chapter, unless the context
11 or subject matter otherwise requires:

12 [~~(1) (A)~~] "Door-to-door sale" [~~means (i) a~~]:

13 (1) Means:

14 (A) A sale of goods or services solicited in person
15 and signed by the buyer at a place other than the
16 seller's business address shown on the contract;
17 [~~or (ii) a~~]

18 (B) A sale of goods or services solicited in person
19 or by mail[~~r~~] or telephone; or [~~public~~]

20 (C) A public or private notice or advertisement if
21 the solicitation includes an offer of a gift,
22 prize, premiums, stamps, coupons, tickets, or



1 other redeemable devices as an inducement for the
2 person solicited or a member of the person's
3 immediate family to go to the seller's place of
4 business, whether the buyer signs at the seller's
5 place of business or elsewhere~~[+]~~; and

6 ~~[(B) The term "door to door sale" does]~~ (2) Does not
7 include a transaction:

8 ~~[(i)]~~ (A) Made pursuant to prior negotiations in
9 the course of a visit by the buyer to a
10 retail business establishment having a fixed
11 permanent location where the goods are
12 exhibited or the services are offered for
13 sale on a continuing basis; ~~[or]~~

14 ~~[(ii)]~~ (B) In which the buyer has initiated the
15 contact and the goods or services are needed
16 to meet a bona fide immediate personal
17 emergency of the buyer, and the buyer
18 furnishes the seller with a separate dated
19 and signed personal statement in the buyer's
20 handwriting describing the situation
21 requiring immediate remedy and expressly
22 acknowledging and waiving the right to



1 cancel the sale within three business days;
2 [~~or~~]
3 [~~(iii)~~] (C) Conducted and consummated entirely by
4 mail or telephone[+] and without any other
5 contact between the buyer and the seller or
6 its representative prior to delivery of the
7 goods or performance of the services; or
8 [~~(iv)~~] (D) In which the buyer has initiated the
9 contact and specifically requested the
10 seller to visit the buyer's home for the
11 purpose of repairing or performing
12 maintenance upon the buyer's personal
13 property. If in the course of such a visit,
14 the seller sells the buyer the right to
15 receive additional services or goods other
16 than replacement parts necessarily used in
17 performing the maintenance or in making the
18 repairs, the sale of those additional goods
19 or services would not fall within this
20 exclusion.

21 [+2+] "Goods" means all chattels personal, other than money
22 and things in action, except as herein provided, and includes



1 emblements, growing crops, and things which attach to or form a
2 part of land which are agreed to be severed before sale under
3 the contract and things which at the time of sale or
4 subsequently are to be so affixed to real property as to become
5 a part thereof, whether or not severable therefrom. The term
6 includes merchandise certificates or coupons, issued by a
7 seller, to be used in their face amount in lieu of cash in
8 exchange for goods sold by such a seller. The term also
9 includes services as herein defined.

10 ~~[(3)]~~ "Services" means work, labor, or service of any kind
11 whether purchased primarily for personal, family, or household
12 use, and whether or not furnished in connection with the
13 delivery, installation, servicing, repair, or improvement of
14 goods, and includes repairs, alterations, or improvements upon
15 or in connection with real property.

16 ~~[(4)]~~ "Seller" means any person, partnership, corporation,
17 association, or other group, however organized, engaged in the
18 door-to-door sale of goods or services.

19 ~~[(5)]~~ "Sale" means ~~[and includes]~~ any sale with a purchase
20 price of \$5 or more, or \$25 if the merchandise is capable of
21 being delivered at one time, other than for resale, of goods to



1 a buyer pursuant to a contract. It does not include a sale to a
2 business establishment.

3 [~~6~~] "Contract" means [~~and includes~~] any agreement,
4 including a conditional sales contract or any other form of
5 instrument, evidencing an obligation to pay the purchase price,
6 or moneys advanced in payment of the purchase price of goods, by
7 payment thereof in one payment, or more than one payment made in
8 installments over a period of time, whether or not the contract
9 contains a title retention provision.

10 [~~7~~] "Cash sale price" means the cash sale price stated in
11 a contract for which the seller would sell to the buyer, and the
12 buyer would buy from the seller, the goods which are the subject
13 matter of the contract if the sale were a sale for cash instead
14 of by payments made in installments over a period of time. The
15 cash sale price may include taxes, registration, license, and
16 other fees and charges for accessories and their installation
17 and for delivering, servicing, repairing, or improving the
18 goods.

19 [~~8~~] "Business day" means any calendar day, except
20 Saturday, Sunday, or any state or federal holiday."

21 SECTION 19. Section 481D-3, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "~~+~~§481D-3~~+~~ **Posting of notice.** (a) A person required
2 to post notice under this chapter shall post a notice which
3 shall be not less than twenty-two inches by thirty-three inches
4 in size and posted in a conspicuous place [~~which~~] that is
5 visible and readable outside the place of business where the
6 sale is to be held. The notice shall be signed under penalty of
7 perjury. Where the person is a corporation, the notice shall be
8 signed by two officers. Where the person is a partnership, the
9 notice shall be signed by two partners. The notice shall
10 include the following:

- 11 (1) The name and address of the owner of the goods being
12 sold. If the [~~person~~] owner is a partnership,
13 corporation, firm, or association, the notice shall
14 contain the full name and position of the individual
15 filing the notice;
- 16 (2) The type of sale and manner in which the sale is to be
17 conducted and the address where the sale is to be
18 conducted;
- 19 (3) The dates and [~~time~~] times during which the sale is to
20 be conducted;
- 21 (4) The name and street address of the person in charge of
22 and responsible for the conduct of the sale;



- 1 (5) An explanation regarding the condition or necessity
2 for the sale, including a statement of the descriptive
3 name of the sale and the reasons why the name is
4 truthfully descriptive of the sale. The notice shall
5 contain a statement that the business will be
6 discontinued at the premises where the sale is to be
7 conducted upon termination of the sale. If the sale
8 is with respect to a removal sale, it shall contain a
9 statement that the business will be discontinued at
10 the premises where the sale is to be conducted upon
11 termination of the sale, in addition to the location
12 of the premises to which the business is to be moved.
13 If the sale is with respect to the sale of goods
14 damaged by fire, smoke, water, or otherwise, the
15 notice shall contain a statement as to the time,
16 location, and cause of the damage;
- 17 (6) The notice shall state that an inventory report form,
18 containing a detailed list and inventory of each item
19 of inventory costing over \$100 to be sold, itemizing
20 the goods to be sold, and containing sufficient
21 information concerning each item, including make and
22 brand name, shall be available for inspection on the



1 store premises on request. The inventory report form
2 shall list separately goods [~~which~~] that were
3 purchased during the sixty-day period immediately
4 prior to the date of posting the notice showing the
5 cost price of each item to the owner of the inventory
6 together with the name and address of the seller of
7 the item to the owner of the inventory, the date of
8 purchase, the date of delivery to the owner of the
9 inventory, and the total value of the inventory at
10 cost;

11 (7) A statement that no goods will be added to the
12 inventory after posting the notice or during the sale,
13 and that the inventory contains no goods received on
14 consignment; and

15 (8) A statement disclosing the date from which the person
16 has maintained a place of business within the State
17 prior to the posting of the notice.

18 [~~(9)~~] (b) This section shall not apply to any person who
19 acquired a right, title, or interest in the goods:

20 [~~(A)~~] (1) As an heir, devisee, legatee, or surviving
21 joint tenant;



1 ~~[(B)]~~ (2) As an executor, administrator, trustee,
2 guardian, or conservator; or

3 ~~[(C)]~~ (3) Pursuant to an order or process of a court
4 of competent jurisdiction."

5 SECTION 20. Section 481D-5, Hawaii Revised Statutes, is
6 amended by amending its title to read as follows:

7 "~~[(f)]§481D-5 []—Violation, penalties.~~ Violations."

8 SECTION 21. Section 481G-6, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "~~[(f)]§481G-6 []~~ **Exceptions.** No action may be brought under
11 section 481G-4 in connection with the termination, cancellation,
12 or nonrenewal of a dealership if the dealership provides for the
13 binding arbitration of disputes arising thereunder, including
14 disputes related to the termination, cancellation, or nonrenewal
15 of the dealership, in accordance with chapter 658A or the rules
16 of the American Arbitration Association."

17 SECTION 22. Section 481H-8, Hawaii Revised Statutes, is
18 amended by amending its title to read as follows:

19 "~~[(f)]§481H-8 []—Penalty and remedies.~~ Remedies."

20 SECTION 23. Section 481I-2, Hawaii Revised Statutes, is
21 amended by amending the definitions of "lessee", "motor



1 vehicle", "purchase price", and "replacement motor vehicle" to
2 read as follows:

3 "Lessee" means any consumer who leases a motor vehicle:

4 (1) [~~for~~] For one year or more pursuant to a written lease
5 agreement which provides that the lessee is
6 responsible for repairs to such motor vehicle[~~τ~~]; or
7 [~~any consumer who leases a motor vehicle~~]

8 (2) [~~pursuant~~] Pursuant to a lease-purchase agreement.

9 "Motor vehicle" [~~means~~]:

10 (1) Means a self-propelled vehicle primarily designed for
11 the transportation of persons or property over public
12 streets and highways which is used primarily for
13 personal, family, or household purposes[~~—For~~
14 ~~purposes of this definition, a "motor vehicle" also~~
15 ~~includes a~~];

16 (2) Includes but shall not be limited to:

17 (A) A "demonstrator", which means a vehicle assigned
18 by a dealer for the purpose of demonstrating
19 qualities and characteristics common to vehicles
20 of the same or similar model or type[~~τ~~];



1 (B) An individually registered vehicle used for an
2 individual's business purposes as well as for
3 personal, family, or household purposes; and

4 (C) A vehicle owned or leased by a sole
5 proprietorship, corporation, or partnership which
6 has purchased or leased no more than one vehicle
7 per year, used for household, individual, or
8 personal use in addition to business use; and

9 (3) Shall [but does] not include mopeds, motorcycles, or
10 motor scooters, as those terms are defined in chapter
11 286, or vehicles over 10,000 pounds, gross vehicle
12 weight rating. [For purposes of this definition, a
13 "motor vehicle" also includes (1) an individually
14 registered vehicle used for an individual's business
15 purposes and for personal, family, or household
16 purposes; and (2) a vehicle owned or leased by a sole
17 proprietorship, corporation or partnership which has
18 purchased or leased no more than one vehicle per year,
19 used for household, individual, or personal use in
20 addition to business use.]

21 "Purchase price" means the cash price appearing in the
22 sales agreement or contract and paid for the motor vehicle,



1 including any net allowance for a trade-in vehicle. Where the
2 consumer is a second or subsequent purchaser and the arbitration
3 award is for a refund of the purchase price of the motor
4 vehicle, "purchase price" means the purchase price of the second
5 or subsequent purchase and shall not [~~te~~] exceed the purchase
6 price paid by the original purchaser.

7 "Replacement motor vehicle" means a motor vehicle which is
8 identical or reasonably equivalent to the motor vehicle to be
9 replaced, as the motor vehicle to be replaced existed at the
10 time of original acquisition, including any service contract,
11 undercoating, rustproofing, and [~~factory or dealer installed~~]
12 factory-installed or dealer-installed options."

13 SECTION 24. Section 481J-2, Hawaii Revised Statutes, is
14 amended by amending subsections (i) and (j) to read as follows:

15 "(i) The dealer shall provide to the consumer, each time
16 the consumer's vehicle is returned from being diagnosed or
17 repaired under the warranty, a fully itemized, legible warranty
18 repair receipt indicating any diagnosis made and all work
19 performed on the vehicle, including[~~7~~] but not limited to:

20 (1) The defect or malfunction complained of;



- 1 (2) The work performed in an attempt to correct the defect
- 2 or malfunction and the identity of the repairer if it
- 3 is not the dealer;
- 4 (3) The parts replaced in performing such work;
- 5 (4) The date and odometer reading when the vehicle was
- 6 submitted for repair; and
- 7 (5) The date when the vehicle was made available to the
- 8 consumer.

9 The consumer shall sign a copy of the warranty repair receipt.

10 (j) A dealer may repair, within the meaning of this

11 section, either by performing the repair itself or, if the

12 dealer does not have a repair facility, by arranging and making

13 payment for prompt repair by a motor vehicle repair dealer

14 [~~registered~~] licensed under chapter 437B."

15 SECTION 25. Section 481J-6, Hawaii Revised Statutes, is

16 amended by amending subsection (a) to read as follows:

17 "(a) If the dealer or its agent fails to correct a defect

18 or malfunction as required by the warranty specified in section

19 481J-2 after a reasonable period of time, the dealer shall

20 accept return of the used motor vehicle from the consumer and

21 refund the full purchase price, including [~~sales~~] general excise

22 tax, less a reasonable allowance for any damage not attributable



1 to normal wear or usage, and with an adjustment for any
2 modifications which either increase or decrease the market value
3 of the vehicle. A reasonable allowance for use shall be fifteen
4 cents for each mile the used motor vehicle has been operated
5 between its sale and its return."

6 SECTION 26. Section 481J-7, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[~~+~~]**\$481J-7**[+] **Civil and administrative actions for**
9 **violations.** (a) A consumer of a used motor vehicle shall have
10 a private right of action against a dealer to enforce this
11 [~~section~~] chapter and recover costs, including reasonable
12 attorney's fees, incurred in the civil action.

13 (b) It shall be an affirmative defense to any claim under
14 this section that:

15 (1) The alleged malfunction or defect does not
16 substantially impair the use or safety of the used
17 motor vehicle;

18 (2) The alleged malfunction or defect is the result of
19 abuse, neglect, or unreasonable modifications or
20 alterations of the used motor vehicle; or

21 (3) The alleged malfunction or defect was covered or
22 warranted under an express warranty issued by the



1 manufacturer of the used motor vehicle, and that such
2 warranty issued by the manufacturer of the used motor
3 vehicle was in effect during the warranty period
4 established by this [~~section-~~] chapter.

5 (c) Any private civil action brought pursuant to this
6 section shall be commenced within one year of the date of
7 original delivery of the used motor vehicle to the consumer.

8 (d) Nothing in this chapter shall in any way limit the
9 rights or remedies which are otherwise available to a consumer
10 under any other law.

11 (e) A [~~motor vehicle~~] dealer's failure to comply with any
12 of the provisions of this chapter may result in disciplinary
13 action pursuant to chapter 437, which may result in sanctions,
14 including[~~r~~] but not limited to[~~r~~] suspension or revocation of
15 license, and the imposition of fines or restitution."

16 SECTION 27. Section 481K-3, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) For purposes of subsection (a):

19 (1) The "current value of the written lease" equals the
20 total amount for which that lease obligates the
21 consumer during the period of the lease remaining
22 after its early termination, plus the assistive device



1 ~~[dealer's]~~ lessor's early termination costs and the
2 value of the assistive device at the lease expiration
3 date if the lease sets forth that value, less the
4 assistive device lessor's early termination savings;

5 (2) A "reasonable allowance for use" shall not exceed the
6 amount obtained by multiplying the total amount the
7 consumer paid or for which the written lease obligates
8 the consumer to pay by a fraction, the denominator of
9 which is one thousand eight hundred twenty-five and
10 the numerator of which is the number of days that the
11 consumer used the assistive device before first
12 reporting the nonconformity to the manufacturer, its
13 agent, assistive device lessor, or assistive device
14 dealer; and

15 (3) It shall be presumed that a manufacturer has had a
16 "reasonable opportunity to repair" if the manufacturer
17 or its agents fails to repair the same nonconformity
18 ~~[with]~~ within two attempts, or the assistive device is
19 out of service, including by reason of attempts to
20 repair one or more nonconformities, for a cumulative
21 total of more than thirty business days after the
22 consumer has returned it for repair."



1 SECTION 28. Section 481L-4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~f~~]**\$481L-4**[~~f~~] **Civil remedies.** A retail lessor who fails
4 to comply with the requirements of this chapter shall be deemed
5 to have engaged in an unfair [~~and~~] or deceptive act or practice
6 in the conduct of trade or commerce within the meaning of
7 section 480-2."

8 SECTION 29. Section 481M-4, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[~~f~~]**\$481M-4**[~~f~~] **Provisions prohibited in agreements.** A
11 lease-purchase agreement may not contain:

- 12 (1) A confession of judgment;
- 13 (2) A negotiable instrument;
- 14 (3) A security interest or any other claim of a property
15 interest in any goods except those goods delivered by
16 the lessor pursuant to the lease-purchase agreement;
- 17 (4) A wage assignment;
- 18 (5) A waiver by the [~~consumer~~] lessee of claims or
19 defenses; or
- 20 (6) A provision authorizing the lessor or a person acting
21 on the lessor's behalf to enter upon the [~~consumer's~~]



1 lessee's premises or to commit any breach of the peace
2 in the repossession of goods."

3 SECTION 30. Section 481M-7, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[~~f~~]**S481M-7**[~~f~~] **Additional charges.** (a) A lessor may
6 contract for and receive an initial nonrefundable fee not to
7 exceed \$10 per [~~contract.~~] lease-purchase agreement. If the
8 lessor requires a security deposit, the amount of the deposit
9 and the conditions under which it will be returned shall be
10 disclosed pursuant to section 481M-13.

11 (b) A lessor may contract for and receive an initial
12 delivery charge per [~~contract~~] lease-purchase agreement that
13 shall not [~~to~~] exceed \$15 in the case of [~~a lease-purchase~~] an
14 agreement covering five or fewer items if[~~, in either case,~~] the
15 lessor actually delivers the items to the lessee's dwelling and
16 the delivery charge is disclosed pursuant to section 481M-14.
17 The delivery charge shall be assessed in lieu of and not in
18 addition to the initial [~~charge~~] fee in subsection (a). A
19 lessor may not contract for or receive a delivery charge on
20 property redelivered after repair or maintenance.

21 (c) A lessor may contract for and receive a charge for
22 picking up late payments from the lessee if the lessor is



1 required to do so pursuant to the [~~rental purchase~~] lease-
2 purchase agreement or is requested to visit the lessee to pick
3 up a payment. In a lease-purchase agreement with payment or
4 renewal dates [~~which~~] that are on a monthly basis, this charge
5 may not be assessed more than three times in any six-month
6 period. In lease-purchase agreements with payments or renewal
7 options on a weekly or biweekly basis, this charge may not be
8 assessed more than six times in any six-month period. No charge
9 assessed pursuant to this subsection may exceed \$10. A pickup
10 fee may be assessed pursuant to this subsection only in lieu of
11 and not in addition to any late charge assessed pursuant to
12 subsection (d).

13 (d) The parties may contract for late charges as follows:

14 (1) For lease-purchase agreements with monthly renewal
15 dates, a late charge not exceeding \$5 may be assessed
16 on any payment not made within five days after payment
17 is due, or return of the property is required; or

18 (2) For lease-purchase agreements with weekly or biweekly
19 renewal dates, a late charge not exceeding \$3 may be
20 assessed on any [~~payments~~] payment not made within
21 three days after payment is due, or return of the
22 property is required.



1 A late charge on lease-purchase agreements may be collected
2 only once on any accrued payment, no matter how long it remains
3 unpaid. A late charge may be collected at the time it accrues
4 or at any time thereafter. A lessor may elect to waive
5 imposition of a late charge due on an accrued payment in
6 accordance with the terms of the lease-purchase agreement;
7 [~~except that,~~] provided that the waiver shall be in writing and,
8 once a late charge is waived for a specific payment, the lessor
9 may not seek to impose a late [~~fee~~] charge for the accrued
10 payment in question. No late charge shall be assessed against a
11 payment that is timely, even though an earlier late charge has
12 not been paid in full."

13 SECTION 31. Section 481M-10, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) In case of a violation by a lessor of any provision
16 of this chapter with respect to any lease-purchase agreement,
17 the lessee may bring a suit in any court of competent
18 jurisdiction to recover actual damages from the lessor, or may
19 set off or counterclaim in any action by the lessor [~~actual~~
20 ~~damages~~]. If the court finds that any violation by the lessor
21 has occurred, the court shall award to the lessee a minimum
22 recovery of \$250 or twenty-five per cent of the total cost to



1 acquire ownership under the lease-purchase agreement, whichever
2 is greater."

3 SECTION 32. Section 481M-12, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[~~f~~]**\$481M-12**[~~f~~] **Waivers.** A lessor shall not require a
6 lessee to waive:

7 (1) Service of process;

8 (2) Any defense;

9 (3) Any counterclaim; or

10 (4) Right of action against the lessor or a person acting
11 on the lessor's behalf as the lessor's agent;

12 in collection of payments under the [~~lease~~] lease-purchase
13 agreement or in repossession of the [~~lease~~] leased property."

14 SECTION 33. Section 481M-13, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "[~~f~~]**\$481M-13**[~~f~~] **Disclosure of information.** (a) The
17 lessor shall disclose to the lessee the information required by
18 this chapter. In a transaction involving more than one lessor,
19 only one lessor need make the disclosures, but all lessors shall
20 be bound by these disclosures. The disclosures shall be made
21 before consummation of the lease-purchase agreement.



1 **(b)** The disclosures shall be made clearly and
2 conspicuously in writing [~~and a~~] and in not less than ten-point
3 standard type. A copy of the disclosures shall be included with
4 [~~of~~] the lease-purchase agreement provided to the lessee [~~in not~~
5 ~~less than ten-point standard type~~]. All disclosures required by
6 this chapter shall be printed or typed in a color or shade that
7 clearly contrasts with the background. The disclosures required
8 under section 481M-14 shall be made on the face of the
9 [~~contract~~] lease-purchase agreement above the line for the
10 lessee's signature. Before any payment is due, the lessor shall
11 furnish the lessee with an exact copy of the lease-purchase
12 agreement, which shall be signed by the lessee and which shall
13 evidence the lessee's agreement.

14 **(c)** If a disclosure becomes inaccurate as the result of
15 any act, occurrence, or agreement by the lessee after delivery
16 of the required disclosures, the resulting inaccuracy shall not
17 be a violation of this chapter."

18 SECTION 34. Section 481M-14, Hawaii Revised Statutes, is
19 amended as follows:

20 1. By amending subsection (a) to read:

21 "(a) For each lease-purchase agreement, the lessor shall
22 disclose in the agreement the following items, as applicable:



- 1 (1) The total number, total amount, and timing of all
2 payments necessary to acquire ownership of the
3 property;
- 4 (2) A statement that the lessee shall not own the property
5 until the lessee has made the total payment necessary
6 to acquire ownership;
- 7 (3) A statement that the lessee shall be responsible for
8 the fair market value of the property if, and as of
9 the time, it is lost, stolen, damaged, or destroyed;
- 10 (4) A brief description of the leased property[~~7~~]
11 sufficient to identify the property to the lessee and
12 the lessor, including an identification number, if
13 applicable, and a statement indicating whether the
14 property is new or used[~~7-but~~]; provided that a
15 statement that indicates that new property is used
16 property does not violate this chapter;
- 17 (5) A brief description of any damages to the leased
18 property;
- 19 (6) A statement of the cash price of the property. If the
20 agreement involves a lease of two or more items as a
21 set[~~7~~] in one agreement, a statement of the aggregate
22 cash price of all items is sufficient;



- 1 (7) The total of initial payments [~~paid~~] made or required
2 at or before consummation of the agreement or delivery
3 of the property, whichever is later;
- 4 (8) A statement that the total of payments shall not
5 include other charges, such as delivery, taxes, late
6 payment, pickup, and reinstatement fees, which fees
7 shall be separately disclosed in the [~~contract~~]
8 agreement;
- 9 (9) A statement clearly summarizing the terms of the
10 lessee's option to purchase, including a statement
11 that the lessee has the right to exercise an early-
12 purchase option and the price, formula, or method for
13 determining the price at which the property may be so
14 purchased;
- 15 (10) A statement identifying the party responsible for
16 maintaining or servicing the property while it is
17 being leased, together with a description of that
18 responsibility, and a statement that if any part of a
19 manufacturer's express warranty covers the leased
20 property at the time the lessee acquires ownership of
21 the property, the warranty shall be transferred to the
22 lessee, if allowed by the terms of the warranty;



1 (11) The date of the transaction and the identities of the
2 lessor and lessee;

3 (12) A statement that the lessee may terminate the
4 agreement without penalty by voluntarily surrendering
5 or returning the property in good repair, ordinary
6 wear and tear excepted, upon expiration of any lease
7 term along with any past due rental payments; and

8 (13) Notice of the right to reinstate an agreement as
9 provided in this chapter."

10 2. By amending subsection (c) to read:

11 "(c) With respect to matters specifically governed by the
12 [~~Federal~~] federal Consumer Credit Protection Act (15 U.S.C.
13 sections 1601 to 1674), compliance with that Act satisfies the
14 requirements of this section."

15 SECTION 35. Section 481M-15, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) A lessee who breaches any lease-purchase agreement,
18 including but not limited to the failure to make timely [~~rental~~]
19 lease payments, shall have the right to reinstate the original
20 lease-purchase agreement without losing any rights or options
21 previously acquired under the lease-purchase agreement if both
22 of the following apply:



1 (1) Subsequent to having failed to make a timely [~~rental~~
2 lease payment, the lessee has promptly surrendered the
3 property to the lessor, in the manner as set forth in
4 the lease-purchase agreement, and if and when
5 requested by lessor; and

6 (2) Not more than thirty days have passed since the lessee
7 returned the [~~lease~~] property; [~~except~~] provided that
8 if the lessee has made more than sixty per cent of the
9 total number of payments required under the lease-
10 purchase agreement to acquire ownership, the thirty-
11 day period shall be extended to a sixty-day period."

12 SECTION 36. Section 481M-17, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "~~{}~~\$481M-17~~{}~~ **Renegotiation for new agreement and**
15 **extensions.** (a) A renegotiation shall occur when an existing
16 lease-purchase agreement is satisfied and replaced by a new
17 agreement undertaken by the same lessor and lessee. A
18 renegotiation shall be considered a new agreement requiring new
19 disclosures. [~~However, the~~]

20 (b) The following events shall not be treated as
21 renegotiations:



1 (1) The addition or return of property in a multiple-item
2 agreement or in the substitution of the [~~lease~~] leased
3 property, if in either case the average payment
4 allocable to a payment period is not changed by more
5 than twenty-five per cent;

6 (2) A deferral or extension of one or more periodic
7 payments, or portions of a periodic payment;

8 (3) A reduction in charges in the lease or agreement;
9 [~~and~~] or

10 (4) A lease or agreement involved in a court proceeding.

11 (c) No disclosures are required for any extension of a
12 lease-purchase agreement."

13 SECTION 37. Section 481P-2, Hawaii Revised Statutes, is
14 amended by amending its title to read as follows:

15 "~~§481P-2 [Unfair or deceptive acts or practices~~
16 ~~prohibited.]~~ Violations."

17 SECTION 38. Section 481P-3, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "[+]§481P-3[+] **Abusive telemarketing acts or practices.**

20 It is an abusive telemarketing act or practice and a violation
21 of this chapter for any seller or telephone solicitor to engage
22 in the following conduct:



- 1 (1) Threaten, intimidate, or use profane or obscene
2 language;
- 3 (2) Request a fee to remove derogatory information from or
4 to improve a consumer's credit history or credit
5 record until:
- 6 (A) The time frame in which the seller or telephone
7 solicitor has represented that all of the goods
8 or services will be provided to that consumer has
9 expired; and
- 10 (B) The seller or telephone solicitor has provided
11 the consumer with documentation in the form of a
12 credit report from a credit reporting agency
13 demonstrating that the promised results have been
14 achieved, the report having been issued more than
15 six months after the results were achieved.
16 Nothing in this chapter [~~should~~] shall be
17 construed to affect the requirement of section
18 604 of the Fair Credit Reporting Act, 15 U.S.C.
19 section 1681b, that a consumer report may only be
20 obtained for a specified permissible purpose;
- 21 (3) Request or receive payment from a consumer to recover
22 or otherwise aid in the return of money or any other



- 1 item lost by the consumer in a telemarketing
2 transaction, until seven business days after the money
3 or other item is delivered to the consumer;
- 4 (4) Request or actually receive payment of any fee in
5 advance of obtaining a loan or other extension of
6 credit when a high likelihood of success has been
7 represented to the consumer by the seller or telephone
8 solicitor;
- 9 (5) Cause the telephone to ring more than ten times in an
10 outbound telephone call;
- 11 (6) Engage any consumer repeatedly or continuously with
12 behavior a reasonable person would deem to be
13 annoying, abusive, or harassing;
- 14 (7) Initiate an outbound telephone call to a consumer,
15 when the person has stated previously that the
16 consumer does not wish to receive telephone calls from
17 that seller or telephone solicitor; provided that the
18 seller or telephone solicitor will not be liable for
19 violating this paragraph if:
- 20 (A) It has established and implemented written
21 procedures to comply with this paragraph, which



- 1 procedures shall meet the minimum standards set
2 forth in 47 C.F.R. section 64.1200(e)(2);
- 3 (B) It has trained its personnel in the procedures
4 established pursuant to subparagraph (A);
- 5 (C) The seller, or telephone solicitor acting on
6 behalf of the seller, has maintained and recorded
7 lists of persons who may not be contacted in
8 compliance with this paragraph; and
- 9 (D) The call is the result of error; or
- 10 (8) Initiate an outbound telephone call to a consumer's
11 residence at any time other than between 8:00 a.m. and
12 9:00 p.m. local time at the location of the consumer
13 called."

14 SECTION 39. Section 481P-5, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "~~§~~481P-5~~§~~ **Exemptions.** This chapter shall not apply
17 to:

- 18 (1) A person who initiates telephone calls to a residence
19 for the sole purpose of polling or soliciting the
20 expression of ideas, opinions, or votes, or a person
21 soliciting solely for a political or religious cause
22 or purpose;



- 1 (2) A securities broker-dealer, salesperson, investment
2 [+]adviser[+], or investment [+]adviser[+]
3 representative who is registered with this State to
4 sell securities or who is authorized to sell
5 securities in this State pursuant to federal
6 securities laws, when soliciting over the telephone
7 within the scope of the person's registration;
- 8 (3) A financial institution that is authorized to accept
9 deposits under its chartering or licensing authority
10 where such deposits are insured by the Federal Deposit
11 Insurance Corporation or the National Credit Union
12 Administration, [~~such as~~] including but not limited to
13 a bank, savings bank, savings and loan association,
14 depository financial services loan company, or credit
15 union, or a nondepository financial services loan
16 company that is licensed or authorized to conduct
17 business in this State by the commissioner of
18 financial institutions, or an affiliate or subsidiary
19 of a financial institution as defined in chapter 412;
- 20 (4) A person or organization that is licensed or
21 authorized to conduct business in this State by the
22 [~~commissioner of insurance~~] insurance commissioner



1 including but not limited to an insurance company and
2 its employees, while engaged in the business of
3 selling or advertising the sale of insurance products
4 or services;

5 (5) A college or university accredited by an accrediting
6 organization recognized by the United States
7 Department of Education;

8 (6) A person who publishes a catalog of at least fifteen
9 pages, four times a year, with a circulation of at
10 least one hundred thousand, where the catalog includes
11 clear disclosure of sale prices, shipping, handling,
12 and other charges;

13 (7) A political subdivision or instrumentality of the
14 United States, or any state of the United States;

15 (8) The sale of goods or services by telecommunications or
16 landline (i.e., cable) or wireless video service
17 providers, for which the terms and conditions of the
18 offering, production, or sale are regulated by the
19 public utilities commission or the Federal
20 Communications Commission, or pursuant to chapter
21 440G, including the sale of goods or services by
22 affiliates of these telecommunications or video



1 service providers [~~+~~ provided that nothing]. Nothing
2 herein shall be construed to preclude or preempt
3 actions brought under any other laws including chapter
4 480;

5 (9) A real estate broker or salesperson who is licensed by
6 this State to sell real estate, when soliciting within
7 the scope of the license; or

8 (10) A travel agency that is registered with this State,
9 when engaging in the business of selling or
10 advertising the sale of travel services."

11 SECTION 40. Section 481P-6, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[~~+~~]**\$481P-6**[~~+~~] **Unfair or deceptive act or practice.** Any
14 person who violates this chapter shall be deemed to have engaged
15 in an unfair method of competition [~~or~~] and unfair [~~and~~] or
16 deceptive act or practice in the conduct [~~+~~]of[~~+~~] any trade or
17 commerce within the meaning of section 480-2."

18 SECTION 41. Section 481R-4, Hawaii Revised Statutes, is
19 amended as follows:

20 1. By amending its title to read:

21 "[~~+~~]**\$481R-4**[~~+~~] **Registration requirements**[~~-~~]; exemptions."

22 2. By amending subsection (b) to read:



1 "(b) Warrantor registration records shall be updated
2 annually and shall contain the following information:

3 (1) The address of the principal office of the warrantor;

4 (2) The name and address of the warrantor's agent for the
5 service of process in this State if other than the
6 ~~[provider,]~~ warrantor;

7 (3) The identities of the warrantor's executive officer or
8 officers directly responsible for the warrantor's
9 vehicle protection product business;

10 (4) The name, address, and telephone number of any
11 administrators designated by the warrantor to be
12 responsible for the administration of vehicle
13 protection product warranties in this State;

14 (5) A copy of each warranty form the warrantor proposes to
15 use in this State; and

16 (6) A statement that the warrantor is in compliance with
17 the financial ~~[responsibility]~~ security requirements
18 of section 481R-5 and that details how the warrantor
19 intends to meet the requirements, and proof of
20 compliance with the requirements."

21 SECTION 42. Section 481R-9, Hawaii Revised Statutes, is
22 amended by amending subsection (c) to read as follows:



1 "(c) The vehicle protection product warranty shall state
2 the name and address of the insurer and state that if a covered
3 service is not provided by the warrantor before the sixty-first
4 day after the date the consumer provides proof of loss, the
5 consumer may apply for reimbursement directly to the vehicle
6 protection [~~product's~~] product warrantor's reimbursement
7 insurance company."

8 SECTION 43. Section 482-5, Hawaii Revised Statutes, is
9 amended by amending its title to read as follows:

10 "~~§482-5~~ [~~Penalty.~~] Unlawful use of trade name; penalty."

11 SECTION 44. Section 482B-1, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "~~[+]§482B-1[+]~~ **Short title.** This chapter may be cited as
14 the Uniform [~~Trades~~] Trade Secrets Act."

15 SECTION 45. Section 482D-1, Hawaii Revised Statutes, is
16 amended by amending the definition of "article of merchandise"
17 to read as follows:

18 "~~["Article]~~ "Article" or "article of merchandise" means any
19 goods, wares, works of art, commodities, or other things which
20 may be lawfully kept or offered for sale, imported into, or
21 exported from the State."



1 SECTION 46. Section 482E-1, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~[f]~~\$482E-1~~[f]~~ **Purpose and intent.** (a) The purpose of
4 this chapter is to regulate the sale of franchises in the State
5 to minimize losses to the franchisee in cases where the
6 franchisor or the franchisor's representative has not provided
7 full and complete information regarding:

8 (1) ~~[the]~~ The franchisor-franchisee relationship;

9 (2) ~~[the]~~ The details of the contract between the
10 franchisor and franchisee; and

11 (3) ~~[the]~~ The prior business experience of the franchisor.

12 (b) It is the intent of the legislature to:

13 (1) ~~[provide]~~ Provide each prospective franchisee with the
14 information necessary to make an intelligent decision
15 regarding franchises being offered;

16 (2) ~~[prohibit]~~ Prohibit the sale of franchises ~~[which]~~
17 that would lead to fraud or a likelihood that the
18 franchisor's promises would not be fulfilled; and

19 (3) ~~[protect]~~ Protect the franchisor or subfranchisor by
20 providing a better understanding of the relationship
21 between the franchisor or subfranchisor and the



1 franchisee with regard to their business
2 relationship."

3 SECTION 47. Section 482E-3, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) It is unlawful for any person to sell a franchise in
6 this State unless such person has presented to the prospective
7 franchisee or the franchisee's representative, at least seven
8 days prior to the sale of the franchise, an offering circular
9 containing the following information:

- 10 (1) The name of the franchisor, the name under which the
11 franchisor is doing or intends to do business, and the
12 name of any parent or affiliated company that will
13 engage in business transactions with franchisees[-];
- 14 (2) The franchisor's principal business address and the
15 name and address of the franchisor's agent in the
16 State authorized to receive service of process[-];
- 17 (3) The business form of the franchisor whether corporate,
18 partnership, or otherwise[-];
- 19 (4) Such other information concerning the identity and
20 business experience of persons affiliated with the
21 franchisor including franchise brokers and selling
22 agents as the director may by rule prescribe[-];



1 (5) A statement whether any person identified in the
2 offering circular, within ten years preceding the date
3 of the offering circular:

4 (A) Has been found guilty of a felony or held liable
5 in a civil action by final judgment if the civil
6 action involved fraud, embezzlement, fraudulent
7 conversion, or misappropriation of property; or

8 (B) Is subject to any currently effective order of
9 the Securities and Exchange Commission or the
10 securities administrator of any state denying
11 registration to or revoking or suspending the
12 registration of such person as a securities
13 broker or dealer or investment ~~adviser~~ adviser
14 or is subject to any currently effective order of
15 any national security association or national
16 securities exchange (as defined in the Securities
17 ~~and~~ Exchange Act of 1934) suspending or
18 expelling such person from membership ~~of~~ in
19 such association or exchange; or

20 (C) Is subject to any currently effective order or
21 ruling of the Federal Trade Commission or is
22 subject to any currently effective order relating



1 to the business activity as a result of an action
2 brought by any public agency or department.

3 Such statement shall set forth the court, the date of
4 conviction or judgment, any penalty imposed~~[+]~~ or
5 damages assessed, or the date, nature, and issue of
6 such order~~[+]~~;

7 (6) A statement of when, where, and how long the
8 franchisor has:

9 (A) Conducted a business of the type to be operated
10 by the franchisees;

11 (B) Has granted franchises for such business; and

12 (C) Has granted franchises in other lines of
13 business~~[+]~~;

14 (7) A recent financial statement of the franchisor,
15 together with a statement of any material changes in
16 the financial condition of the franchisor from the
17 date ~~[thereof.]~~ of the financial statement. The
18 director may ~~[describe+]~~ prescribe:

19 (A) ~~[Form]~~ The form and content of the financial
20 statements required under this chapter;

21 (B) The circumstances under which consolidated
22 financial statements ~~[can]~~ may be filed; and



- 1 (C) The circumstances under which financial
2 statements shall be audited by independent,
3 certified public accountants[+] ;
- 4 (8) A copy of the typical franchise contract or agreement
5 proposed for use in this State[+] ;
- 6 (9) A statement of the franchise fee charged, the proposed
7 application of the proceeds of the fee by the
8 franchisor, and the formula by which the amount of the
9 fee is determined if the fee is not the same in all
10 cases[+] ;
- 11 (10) A statement describing a payment of fees other than
12 franchise fees that the franchisee or subfranchisor is
13 required to pay to the franchisor including royalties
14 and payments or fees [~~which~~] that the franchisor
15 collects in whole or in part on behalf of a third
16 party or parties[+] ;
- 17 (11) A statement of the conditions under which the
18 franchise agreement may be terminated or renewed or
19 renewal refused, or repurchased at the option of the
20 franchisor[+] ;
- 21 (12) A statement of the conditions under which the
22 franchise may be sold, transferred, or assigned[+] ;



- 1 (13) A statement of the conditions imposed by the
2 franchisor whether by the terms of the franchise
3 agreement or by other device or practice whereby the
4 franchisee or subfranchisor is required to purchase
5 services, supplies, products, fixtures, or other goods
6 relating to the establishment or operation of the
7 franchise business from the franchisor or the
8 franchisor's designee[+];
- 9 (14) A statement of any restriction or condition imposed by
10 the franchisor whether by the terms of the franchise
11 agreement or by other device or practice whereby the
12 franchisee is limited or required in the goods and
13 services offered by the franchisee[+];
- 14 (15) A statement of the terms and conditions of any
15 financing arrangements when offered directly or
16 indirectly by the franchisor or the franchisor's agent
17 or affiliate[+];
- 18 (16) A statement of any intent of the franchisor to sell,
19 assign, or discount to a third party any note,
20 contract, or other obligation of the franchisee in
21 whole or in part[+];



- 1 (17) A copy of any financial statement prepared for
2 presentation to prospective franchisees or other
3 persons together with a statement setting forth the
4 basis for such statements[-];
- 5 (18) A statement of the number of franchise businesses in
6 each of the following categories [~~which~~] that within
7 the three-year period preceding the date of the
8 offering circular have:
- 9 (A) Been canceled or terminated by either the
10 franchisor or franchisee;
- 11 (B) Not been renewed by either the franchisor or
12 franchisee;
- 13 (C) Been reacquired through purchase by the
14 franchisor;
- 15 (D) Been otherwise reacquired by the franchisor; and
16 (E) Been transferred or sold by the franchisee to
17 persons other than a corporation or other
18 business entity controlled by the transferring or
19 selling franchisee[-];
- 20 (19) A statement describing the training program,
21 supervision, and assistance the franchisor has and
22 will provide the franchisee[-];



- 1 (20) A statement as to whether franchisees or
2 subfranchisors receive an exclusive area or
3 territory~~[]~~;
- 4 (21) A statement of any compensation or other benefit given
5 or promised to a public figure arising, in whole or in
6 part, from:
- 7 (A) ~~[the]~~ The use of the public figure in the name or
8 symbol of the franchise; or
- 9 (B) ~~[the]~~ The endorsement or recommendation of the
10 franchise by the public figure in
11 advertisements~~[]~~;
- 12 (22) Such other information as the director may reasonably
13 require~~[]~~;
- 14 (23) Such other information as the franchisor may wish to
15 present~~[]~~;
- 16 (24) When the person selling the franchise is a
17 subfranchisor, the offering circular shall also
18 include the same information concerning the
19 subfranchisor as is required from the franchisor
20 pursuant to this subsection~~[]~~; and



1 (25) List of names and addresses of all franchisees of the
2 franchisor whose franchise businesses are situated in
3 this State."

4 SECTION 48. Section 483-1, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "~~§483-1~~ **Definitions; limitations of law.** In this chapter,
7 unless otherwise expressly stated [~~, obligation~~]:

8 "Obligation" does not include a liability in tort [~~+~~
9 ~~obligor~~].

10 "Obligor" does not include a person liable for a tort [~~+~~
11 ~~obligee~~].

12 "Obligee" does not include a person having a right based on
13 a tort. [~~Several obligors~~]

14 "Several obligors" means obligors severally bound for the
15 same performance."

16 SECTION 49. Section 484-1, Hawaii Revised Statutes, is
17 amended as follows:

18 1. By adding a new definition to be appropriately inserted
19 and to read:

20 "Director" means the director of commerce and consumer
21 affairs."



1 2. By amending the definition of "commissioner of
2 securities" to read:

3 "Commissioner of securities" means the [~~director of~~
4 ~~commerce and consumer affairs in the director's capacity as~~
5 commissioner of securities~~[-]~~ as defined in section 485A-102."

6 SECTION 50. Section 484-2, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "~~§484-2 [Administrative director.] Administration.~~ This
9 chapter shall be administered by the director of commerce and
10 consumer affairs [~~, hereinafter called the director~~]."

11 SECTION 51. Section 484-3, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) Unless the method of disposition is adopted for the
14 purpose of evasion of this chapter, or unless the subdivider
15 files in writing with the director that this chapter shall apply
16 to the subdivider's subdivision, this chapter shall not apply to
17 offers or dispositions of an interest in land:

18 (1) By a purchaser of subdivided lands for the purchaser's
19 own account in a single or isolated transaction;

20 (2) If fewer than twenty separate lots, parcels, units, or
21 interests in subdivided lands are offered by a person
22 in a period of twelve months;



- 1 (3) Where the division of lands is a leasehold
2 agricultural lot within state agricultural districts
3 on which no dwelling structures are constructed as
4 provided in section [~~205-4.5(e)+~~] 205-4.5(f);
- 5 (4) On which there is a residential, commercial, or
6 industrial building, or as to which there is a legal
7 obligation on the part of the seller to construct a
8 building on the land within two years from the date of
9 disposition; provided that the obligation to construct
10 shall not be, directly [+]or[+] indirectly,
11 transferred to or otherwise imposed upon the
12 purchaser;
- 13 (5) To persons who are engaged in, and are duly licensed
14 to engage in, the business of construction of
15 buildings for resale, or to persons who acquire an
16 interest in subdivided lands for the purpose of
17 engaging, and do engage in, and are duly licensed to
18 engage in, the business of construction of buildings
19 for resale;
- 20 (6) Pursuant to court order;
- 21 (7) By any government or government agency;
- 22 (8) As cemetery lots or interests; or



1 (9) Registered as a condominium property regime pursuant
2 to chapter 514B."

3 SECTION 52. Section 484-5, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) The application shall be submitted with payment of
6 the appropriate registration[~~7~~] and consultant[~~7~~]fees and
7 inspection [~~fees.~~] expenses."

8 SECTION 53. Section 486-77, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "~~§486-77 [Tampering with passenger car odometer~~
11 ~~prohibited; misrepresentation of distance traveled prohibited.]~~
12 Odometers; prohibitions; exemptions. (a) It shall be unlawful
13 to:

- 14 (1) Tamper with an odometer, installed in a passenger car,
15 for any purpose. This [~~section~~] paragraph shall not
16 be construed to preclude legitimate repair,
17 replacement, or adjustment of an odometer, provided
18 that the administrator may require documentation of
19 such repair, replacement, or adjustment[~~7~~];
- 20 (2) Advertise for sale, or sell, rent, lease, or export
21 any passenger car, the odometer of which has been
22 tampered with in such a fashion or manner as to



1 mislead the prospective buyer to believe that the
2 passenger car traveled a lesser distance than it
3 actually has traveled~~[+]~~;

4 (3) Operate a passenger car on any street or highway,
5 knowing that the odometer of the passenger car is
6 disconnected or nonfunctional~~[+]~~;

7 (4) Disconnect, turn back, advance, or reset the odometer
8 of any passenger car with intent to alter the distance
9 indicated on the odometer~~[+]~~; or

10 (5) Misrepresent the true distance traveled by any
11 passenger car subject to this part, so as to mislead a
12 prospective buyer.

13 (b) This section shall not preclude the installation,
14 maintenance, repair, or replacement of odometers when such
15 action is necessary to cause compliance with this part. Any
16 such action, however, shall expressly be noted on the
17 certificate of ownership and called to the attention of a
18 prospective buyer, in writing."

19 SECTION 54. Section 486-79, Hawaii Revised Statutes, is
20 amended by amending its title to read as follows:

21 "**§486-79 Citation and notice to appear~~[+ penalty]~~.**"



1 SECTION 55. Section 486-134, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~f~~]**\$486-134**[~~t~~] **Optional licensing.** The following persons
4 shall not be required, but shall be permitted, to obtain
5 licenses as public measuremasters:

- 6 (1) A law enforcement or measurement standards officer, or
7 other qualified employee of a state[~~, city,~~] or county
8 agency or institution when acting within the scope of
9 the officer's or employee's official duties;
- 10 (2) A person weighing property, produce, commodities, or
11 articles that the person, or the person's employer,
12 [~~if any,~~] is either buying or selling; and
- 13 (3) A person weighing property, produce, commodities, or
14 articles in conformity with the requirements of
15 federal statutes or the statutes of this State
16 relative to [~~warehousepersons~~] warehouse workers or
17 processors."

18 SECTION 56. Section 486B-1, Hawaii Revised Statutes, is
19 amended by amending the definition of "person" to read as
20 follows:

21 ""Person" means an individual, corporation, government[~~t~~]
22 or governmental subdivision or agency, business trust, estate,



1 trust, partnership, unincorporated association, two or more of
2 any of the foregoing having a joint or common interest, or any
3 other legal or commercial entity."

4 SECTION 57. Section 486H-1, Hawaii Revised Statutes, is
5 amended as follows:

6 1. By amending the definition of "non-refiner marketer" to
7 read:

8 "Non-refiner marketer" means any person who acquires
9 gasoline for sale in the State [~~of Hawaii,~~] and who is not a
10 refiner located and operating in the State [~~of Hawaii,~~] nor an
11 importer owned by or affiliated with, directly or indirectly,
12 [~~by~~] a refiner located and operating in the State [~~of Hawaii~~]."

13 2. By amending the definition of "retail" as follows:

14 "~~["Retail" means the sale of a product for purposes other~~
15 ~~than resale.]~~

16 "Retail" means a sale of gasoline made to the general
17 public at prices that are displayed on the dispensing
18 equipment."

19 3. By amending the definitions of "retail service station"
20 and "retail station" to read:



1 ""Retail service station" or "retail station" means a place
2 of business where motor vehicle fuel is sold and delivered into
3 the tanks of motor vehicles[-

4 ~~"Retail station" means]~~ and includes a company retail
5 station, a dealer retail station, and an independent retail
6 station."

7 4. By amending the definition of "secondary brand" to
8 read:

9 ""Secondary brand" means a trade name or trademark, other
10 than a major brand, used to identify a [~~manufacturer's~~] company
11 retail [~~service~~] station."

12 5. By repealing the definition of "self-serve basis":

13 "~~"Self-serve basis" means that the retail station allows~~
14 ~~customers to dispense gasoline into vehicles.]"~~

15 SECTION 58. Section 486H-4, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "~~[+]§486H-4[+] Exceptions.]~~ Wrongful termination,
18 cancellation, or nonrenewal; exception to actions. No action
19 may be brought under section 486H-2 in connection with the
20 termination, cancellation, or nonrenewal of a franchise if the
21 franchise agreement provides for the binding arbitration of
22 disputes arising under the agreement, including disputes related



1 to the termination, cancellation, or nonrenewal of the
2 franchise, in accordance with chapter 658A and the rules of the
3 American Arbitration Association."

4 SECTION 59. Section 486H-10.4, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§486H-10.4 Restrictions on manufacturers or jobbers in**
7 **operating service stations; lease rent controls** [~~definitions~~].

8 (a) Beginning August 1, 1997, no manufacturer or jobber shall
9 convert an existing dealer retail station to a company retail
10 station; provided that nothing in this section shall limit a
11 manufacturer or jobber from:

12 (1) Continuing to operate any company [~~operated~~] retail
13 [~~service stations~~] station legally in existence on
14 July 31, 1997;

15 (2) Constructing and operating any new retail service
16 [~~stations~~] station as a company retail [~~stations~~]
17 station constructed after August 1, 1997, subject to
18 subsection (b); or

19 (3) Operating a former dealer retail station for up to
20 twenty-four months until a replacement dealer can be
21 found if the former dealer vacates the [~~service~~]



1 retail station, cancels the franchise, or is properly
2 terminated or not renewed.

3 (b) No new company retail station shall be located within
4 one-eighth mile of a dealer retail station in an urban area, and
5 within one-quarter mile in other areas.

6 (c) All leases as part of a franchise as defined in
7 section 486H-1, existing on August 1, 1997, or entered into
8 thereafter, shall be construed in conformity with the following:

- 9 (1) Such renewal shall not be scheduled more frequently
10 than once every three years; and
- 11 (2) Upon renewal, the lease rent payable shall not exceed
12 fifteen per cent of the gross sales, except for
13 gasoline, which shall not exceed fifteen per cent of
14 the gross profit of product, excluding all related
15 taxes by the dealer [~~operated~~] retail [~~service~~]
16 station as defined in section 486H-1 [~~and 486H-10.4~~]
17 plus, in the case of a retail service station at a
18 location where the manufacturer or jobber is the
19 lessee and not the owner of the ground lease, a
20 percentage increase equal to any increase [~~which~~] that
21 the manufacturer or jobber is required to pay the
22 lessor under the ground lease for the service station.



1 ~~[For the purposes of this subsection, "gross amount"~~
2 ~~means all monetary earnings of the dealer from a~~
3 ~~dealer operated retail service station after all~~
4 ~~applicable taxes, excluding income taxes, are paid.]~~

5 The provisions of this subsection shall not apply to any
6 existing contracts that may be in conflict with its provisions.

7 (d) Nothing in this section shall prohibit a gasoline
8 dealer from selling a retail service station in any manner."

9 SECTION 60. Section 486H-10.5, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "~~[§]486H-10.5[§]~~ **Violation; penalties.** Any person who
12 violates section ~~[486H-10]~~ 486H-10.4 shall be assessed a civil
13 penalty of \$1,000 per day for each violation."

14 SECTION 61. Section 486H-11, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "~~[§]486H-11[§]~~ **Enforcement of prohibition.** (a) The
17 attorney general shall commence a civil action to enforce
18 section ~~[486H-10,]~~ 486H-10.4 by seeking injunctive or any other
19 appropriate relief. The civil action shall be brought in the
20 circuit court of the circuit where the alleged violation
21 occurred, or where the defendant resides or is doing business.



1 (b) Any person who is injured in [~~another~~] that person's
2 business or property by the violation of section [~~486H-10,~~]
3 486H-10.4 may bring a civil action for damages or injunctive
4 relief, or both, against the person violating section [~~486H-10.~~]
5 486H-10.4. If the plaintiff prevails, the plaintiff shall be
6 awarded reasonable [~~attorneys~~] attorneys' and expert witness
7 fees; provided that if a court awards only nominal damages to
8 the plaintiff, those fees, in the court's discretion, need not
9 be awarded to the plaintiff. Any action brought under this
10 subsection shall be brought in the circuit court of the circuit
11 where the alleged violation occurred, or where the defendant
12 resides or is doing business."

13 SECTION 62. Section 486K-1, Hawaii Revised Statutes, is
14 amended by amending the definitions of "guest", "hotel/hotel-
15 condo", and "keeper" to read as follows:

16 ""Guest" means a person who is registered at the hotel and
17 to whom a bedroom is assigned. The term "guest" shall include
18 not only the guest, but the members of the guest's family and
19 other persons who accompany the guest.

20 [~~"Hotel/hotel-condo"~~] "Hotel", "hotel-condominium" or
21 "condominium-hotel" means an establishment consisting of any
22 building or structure used primarily for the business of



1 providing for consideration transient accommodation lodging
2 facilities and that furnishes, as part of its routine
3 operations, one or more customary lodging services, other than
4 living accommodations and the use of furniture and fixtures,
5 including[7] but not limited to[7] restaurant facilities, or
6 room attendant, bell, telephone switchboard, laundering, or
7 concierge services, and is subject to the transient
8 accommodations tax under chapter 237D.

9 ["Keeper"] "Hotelkeeper" or "keeper" includes any [person,7]
10 individual, firm, or corporation actually operating a hotel."

11 SECTION 63. Section 486K-2, Hawaii Revised Statutes, is
12 amended by amending its title to read as follows:

13 "[~~+~~§486K-2 [~~+~~Hotelkeepers] Hotelkeeper's lien on
14 baggage, etc., of guests; summary ejection of delinquents."

15 SECTION 64. Section 486K-4, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) If the keeper of any hotel provides a safe or vault
18 in its office [~~thereof,~~] at the hotel for the safekeeping of any
19 valuables belonging to the guests of the hotel, and prominently
20 posts a notice in the room or rooms occupied by the guest
21 stating that a safe or vault is provided in which valuables may
22 be deposited and if any guest neglects to deliver valuables to



1 the person in charge of the safe or vault, the keeper of the
2 hotel shall not be liable in any sum for any loss of valuables
3 sustained by the guest by theft or otherwise unless the loss is
4 due to the negligence or fault of the keeper of the hotel. If
5 the guest delivers valuables to the person in charge of the
6 office for deposit in the safe or vault, the keeper shall not be
7 liable for any loss [~~thereof~~] sustained by the guest[~~7~~] by theft
8 or otherwise[~~7~~] in any sum exceeding \$500; provided that the
9 keeper's liability is limited to \$500 only if:

10 (1) [~~the~~] The keeper gives a receipt for the valuables on
11 a form which states, in type large enough to be
12 clearly noticeable, that the keeper is not liable for
13 any loss exceeding \$500 except by special agreement in
14 writing in which the keeper agrees to accept liability
15 for losses in excess of \$500; and

16 (2) [~~the~~] The loss is not due to the negligence or fault
17 of the keeper of the hotel.

18 The keeper may accept liability for losses in excess of \$500 by
19 special agreement in writing between a guest and the keeper or
20 the keeper's duly authorized representative."

21 SECTION 65. Section 486K-5, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "~~[+]§486K-5[+]~~ **Hotelkeeper's liability for personal**
2 **property.** (a) No ~~[keeper of any hotel]~~ hotelkeeper shall be
3 liable in any sum to any guest of the hotel for the loss of
4 wearing apparel, goods, merchandise, or other personal property
5 not mentioned in section 486K-4, unless it appears that the loss
6 occurred through the fault or negligence of the ~~[keeper-]~~
7 hotelkeeper.

8 (b) ~~[Nor shall any keeper]~~ No hotelkeeper shall be liable
9 in any event in any sum for the loss of any article or articles
10 of wearing apparel, cane, umbrella, satchel, valise, bag, box,
11 bundle, or other chattel belonging to any guest of, or in, any
12 hotel, and not within a room or rooms assigned to the guest,
13 unless the same is specially ~~[intrusted]~~ entrusted to the care
14 and custody of the keeper or the keeper's duly authorized
15 agent~~[, and if]~~. If so specially [intrusted] entrusted with any
16 such article belonging to the guest, the keeper shall not be
17 liable for the loss of the ~~[same]~~ article in any sum exceeding
18 \$500 ~~[except]~~; provided that the keeper's liability may be in
19 excess of \$500 by special agreement in writing with the keeper
20 or the keeper's duly authorized representative."

21 SECTION 66. Section 486K-6, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "~~[+]§486K-6[+]~~ **Hotelkeeper's** [~~responsibility~~] liability in
2 **case of fire, etc.** [~~The keeper of any hotel~~] A hotelkeeper
3 shall only be liable to any guest of the hotel[~~r~~] for ordinary
4 and reasonable care in the custody of money, jewels, bank notes,
5 precious stones, transportation tickets, negotiable or valuable
6 papers, ornaments, baggage, wearing apparel, or other chattels
7 or property belonging to any guest, whether specially
8 [~~intrusted~~] entrusted to the keeper or the keeper's agent, or
9 deposited in the safe of the hotel, for any loss occasioned by
10 fire or by any other cause or force[~~r~~] over which the
11 [~~proprietor~~] hotelkeeper had no control."

12 SECTION 67. Section 487-13, Hawaii Revised Statutes, is
13 amended as follows:

14 1. By amending its title to read:

15 "~~§487-13~~ [~~Penalties for unlicensed~~] Unlicensed acts [~~-~~];
16 penalties."

17 2. By amending subsection (c) to read:

18 "(c) Any contract for the furnishing of commodities or
19 services by an unlicensed, unregistered, or [~~uncertified~~]
20 uncertificated person shall be void and shall prevent such
21 person from recovering the contract price or the reasonable
22 value thereof."



1 SECTION 68. Section 487J-2, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Except as otherwise provided in subsection (b), a
4 business or government agency may not do any of the following:

5 (1) Intentionally communicate or otherwise make available
6 to the general public an individual's entire social
7 security number;

8 (2) Intentionally print or imbed an individual's entire
9 social security number on any card required for the
10 individual to access products or services provided by
11 the [~~person or entity,~~] business or government agency;

12 (3) Require an individual to transmit the individual's
13 entire social security number over the [~~internet,~~]
14 Internet, unless the connection is secure or the
15 social security number is encrypted[+]. For purposes
16 of this paragraph, "encrypted" means that an
17 algorithmic process has been used to transform data
18 into a form in which the data is rendered unreadable
19 or unusable without the use of a confidential process
20 or key;

21 (4) Require an individual to use the individual's entire
22 social security number to access an internet website,



1 unless a password or unique personal identification
2 number or other authentication device is also required
3 to access the internet website; [~~and~~] or

4 (5) Print an individual's entire social security number on
5 any materials that are mailed to the individual,
6 unless the materials are employer-to-employee
7 communications, or where specifically requested by the
8 individual."

9 SECTION 69. Section 487N-1, Hawaii Revised Statutes, is
10 amended by amending the definition of "encryption" to read as
11 follows:

12 ""Encryption" or "encrypted" means the use of an
13 algorithmic process to transform data into a form in which the
14 data is rendered unreadable or unusable without the use of a
15 confidential process or key."

16 SECTION 70. Section 487N-2, Hawaii Revised Statutes, is
17 amended by amending subsection (g) to read as follows:

18 "(g) The following businesses shall be deemed to be in
19 compliance with this section:

20 (1) A financial institution that is subject to the
21 [~~Federal~~] federal Interagency Guidance on Response
22 Programs for Unauthorized Access to [~~Consumer~~]



1 Customer Information and Customer Notice published in
2 the Federal Register on March 29, 2005, by the Board
3 of Governors of the Federal Reserve System, the
4 Federal Deposit Insurance Corporation, the Office of
5 the Comptroller of the Currency, and the Office of
6 Thrift Supervision, or subject to 12 C.F.R. Part 748,
7 and any revisions, additions, or substitutions
8 relating to [~~said~~] the interagency guidance; and

- 9 (2) Any health plan or healthcare provider that is subject
10 to and in compliance with the standards for privacy or
11 individually identifiable health information and the
12 security standards for the protection of electronic
13 health information of the Health Insurance Portability
14 and Accountability Act of 1996."

15 SECTION 71. Section 487R-1, Hawaii Revised Statutes, is
16 amended by amending the definition of "personal information" to
17 read as follows:

18 ""Personal information" means an individual's first name or
19 first initial and last name in combination with any one or more
20 of the following data elements, when either the name or the data
21 elements are not encrypted:

- 22 (1) Social security number;



1 (2) Driver's license number or Hawaii identification card
2 number; or

3 (3) Account number, credit or debit card number, access
4 code, or password that would permit access to an
5 individual's financial account.

6 "Personal information" shall not include publicly available
7 information that is lawfully made available to the general
8 public from federal, state, or local government records.

9 "Encrypted", as used in this definition means the use of an
10 algorithmic process to transform data into a form in which the
11 data is rendered unreadable or unusable without the use of a
12 confidential process or key."

13 SECTION 72. Section 487R-2, Hawaii Revised Statutes, is
14 amended by amending subsection (c) to read as follows:

15 "(c) A business or government agency may satisfy its
16 obligation hereunder by exercising due diligence and entering
17 into a written contract with, and thereafter monitoring
18 compliance by, another party engaged in the business of [~~record~~]
19 records destruction to destroy personal information in a manner
20 consistent with this section. Due diligence should ordinarily
21 include one or more of the following:



- 1 (1) Reviewing an independent audit of the disposal
2 business' operations or its compliance with this
3 ~~[statute or its equivalent,]~~ chapter;
- 4 (2) Obtaining information about the disposal business from
5 several references or other reliable sources and
6 requiring that the disposal business be certified by a
7 recognized trade association or similar third party
8 with a reputation for high standards of quality
9 review; or
- 10 (3) Reviewing and evaluating the disposal business'
11 information security policies or procedures, or taking
12 other appropriate measures to determine the competency
13 and integrity of the disposal business."

14 SECTION 73. Section 488-1, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§488-1 Definitions.** As used in this chapter:

17 [~~(1)~~] "Department" means the department of commerce and
18 consumer affairs.

19 [~~(2)~~] "Plan administrator" means those persons who have
20 discretionary authority for the management of the plan or for
21 the collection, management, or disbursement of plan moneys.



1 [~~3~~] "Prepaid legal service plan" [~~"Plan"~~] or "plan"
2 means a group legal service plan in which the cost of the
3 services are prepaid by the group member or by some other person
4 or organization in the member's behalf.

5 [~~A group~~] "Group legal service plan" is a plan by which
6 legal services are rendered to individual members of a group
7 identifiable in terms of some common interest."

8 SECTION 74. Section 488-2, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[~~+~~]**\$488-2**[~~+~~] **Applicability; other statutes, rules of**
11 **court.** (a) This chapter shall apply to all plans in the State
12 other than:

13 (1) Plans in which either the group or the plan
14 administrator is otherwise subject to regulation under
15 chapter 431 or [~~433.~~] 432;

16 (2) Plans in which any party to the plan is the federal
17 government or any agency thereof[~~-~~]; or

18 (3) Any employer-employee plan [~~which~~] that is subject to
19 the federal Employee Retirement Income Security Act of
20 1974, Public Law 93-406.

21 (b) The operation of all plans subject to this chapter
22 shall also be subject to chapters 480, [~~481, part I,~~] part I of



1 chapter 481, 481A, and 481B, and other provisions of law [which]
2 that may be applicable. Chapters 431[~~7, 433, and 434~~] and 432
3 shall not apply to any plans or the operations thereof [which]
4 that are subject to this chapter, except as provided in sections
5 488-5 and 488-6.

6 (c) No plan subject to this chapter shall contravene rules
7 of court adopted by the Hawaii supreme court."

8 SECTION 75. Section 488-5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[+]§488-5[+] **Annual exhibits; examination by director.**

11 (a) Each plan shall file with the director of commerce and
12 consumer affairs within thirty days after the end of its fiscal
13 year a statement under oath in such form as the director
14 prescribes containing:

- 15 (1) A statement setting forth the total amount of gross
16 receipts and expenditures of the plan during its
17 fiscal year;
- 18 (2) The assets and liabilities of the plan at the close of
19 its fiscal year; and
- 20 (3) The profit and loss of the plan during its fiscal
21 year.



1 (b) The powers, authorities, and duties relating to
2 examinations vested in and imposed upon the insurance
3 commissioner under chapter 431 are extended to and imposed upon
4 the director in respect to examinations of the plans; provided
5 that no examination shall attempt to obtain or inspect written
6 or oral information or documents in violation of the [~~attorney-~~
7 ~~client privilege~~] rules for client-lawyer confidentiality as [~~it~~
8 ~~is~~] contained in the [~~Code of Professional Responsibility~~]
9 Hawaii Rules of Professional Conduct adopted by the supreme
10 court."

11 SECTION 76. Section 488-6, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[~~§~~]**488-6**[~~§~~] **Investments of certain plans.** No plan
14 promising or offering to pay for legal services in an amount
15 equal to or in excess of \$25 a year shall invest any of its
16 assets other than as authorized and provided for in respect to
17 domestic insurance companies and societies under [~~chapter~~]
18 chapters 431[~~7~~] and 432, which provisions are hereby extended to
19 and made applicable to prepaid legal service plans."

20 SECTION 77. Section 489D-4, Hawaii Revised Statutes, is
21 amended by amending the definition of "permissible investments"
22 to read as follows:



- 1 ""Permissible investments" means:
- 2 (1) Cash;
- 3 (2) Certificates of deposit or other debt obligations of a
4 financial institution, either domestic or foreign;
- 5 (3) Bills of exchange or time drafts drawn on and accepted
6 by a commercial bank, known as bankers' acceptances,
7 that are eligible for purchase by member banks of the
8 Federal Reserve System;
- 9 (4) Any investment bearing a rating of one of the three
10 highest grades as defined by a nationally recognized
11 organization that rates securities;
- 12 (5) Investment securities that are obligations of the
13 United States, its agencies, or its instrumentalities,
14 obligations that are guaranteed fully as to principal
15 and interest of the United States, or any obligations
16 of any state, municipality, or any political
17 subdivision thereof;
- 18 (6) Shares in a money market mutual fund, interest-bearing
19 bills, notes, or bonds, debentures or stock traded on
20 any national securities exchange or on a national
21 over-the-counter market, mutual funds primarily
22 composed of these securities, or a fund composed of



- 1 one or more permissible investments as set forth in
2 ~~[this subsection]~~ paragraphs (1) to (5);
- 3 (7) Any demand borrowing agreement or agreements made with
4 a corporation or a subsidiary of a corporation whose
5 capital stock is listed on a national exchange;
- 6 (8) Receivables that are due to a licensee from its
7 authorized delegates pursuant to a contract under
8 section 489D-21, that are not past due or doubtful of
9 collection; or
- 10 (9) Any other investments or security device approved by
11 the commissioner."

12 SECTION 78. Section 489E-3, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) This chapter shall apply to electronic records and
15 electronic signatures relating to a transaction. ~~[A transaction~~
16 ~~subject to this chapter shall be subject to other applicable~~
17 ~~substantive law.]"~~

18 SECTION 79. This Act shall be amended to conform to all
19 other acts passed by the legislature during the regular session
20 of 2008, whether enacted before or after the effective date of
21 this Act, unless the other act specifically provides otherwise.



1 SECTION 80. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 81. This Act shall take effect upon its approval.



Report Title:

Volume 11; Housekeeping Amendments

Description:

Amends various provisions of volume 11 of the Hawaii Revised Statutes for the purpose of correcting errors and references, and clarifying language.

