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SESSION LAWS

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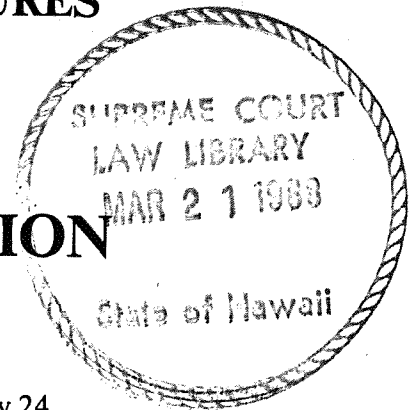
HAWAII

PASSED BY THE

THIRTEENTH AND FOURTEENTH STATE LEGISLATURES

VOLUME 1

SPECIAL SESSION 1986



Convened on Thursday, July 24
and
Adjourned sine die on Wednesday, July 30

REGULAR SESSION 1987

Convened on Wednesday, January 21
and
Adjourned sine die on Thursday, April 30

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remedying tenant defaults, such as estimates or invoices for material and services or of the costs of cleaning, such as receipts for supplies and equipment or charges for cleaning services. The security deposit, or the portion of the security deposit remaining after the landlord has claimed and retained amounts authorized under this section, if any, shall be returned to the tenant not later than fourteen days after the termination of the rental agreement. If the landlord does not furnish the tenant with the written notice and other information required by this subsection, within fourteen days after the termination of the rental agreement, the landlord shall not be entitled to retain the security deposit or any part of it, and the landlord shall return the entire amount of the security deposit to the tenant. A return of the security deposit or the furnishing of the written notice and other required information complies with the requirements of this subsection if mailed to the tenant, at an address supplied to the landlord by the tenant, by certified mail, return receipt requested, and postmarked before midnight of the fourteenth day after the date of the termination of the rental agreement. All actions for the recovery of a landlord's complete or partial retention of the security deposit shall be instituted not later than one year after termination of the rental agreement."

SECTION 2. New statutory material is underscored.

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

(Approved June 25, 1987.)

ACT 283

S.B. NO. 431

A Bill for an Act Relating to Statutory Revision: Amending or Repealing Various Provisions of the Hawaii Revised Statutes and the Session Laws of Hawaii for the Purpose of Correcting Errors, Clarifying Language, Correcting References, and Deleting Obsolete or Unnecessary Provisions.

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

SECTION 1. Section 214, Hawaiian Homes Commission Act of 1920, as amended, is amended by amending subsection (b) to read as follows:

"(b) In addition the department may:

- (1) Use moneys in the Hawaiian home operating fund, with the prior approval of the governor, to match federal, state, or county funds available for the same purposes and to that end, enter into such undertaking, agree to such conditions, transfer funds therein available for such expenditure, and do and perform such other acts and things, as may be necessary or required, as a condition to securing matching funds for such projects or works;
- (2) Loan or guarantee the repayment of or otherwise underwrite any authorized loan or portion thereof, up to a maximum of \$50,000 to lessees in accordance with section 215;
- (3) Loan or guarantee the repayment of or otherwise underwrite any authorized loan or portion thereof to a cooperative association in accordance with section 215;

- (4) Permit and approve loans made to lessees by government agencies or private lending institutions, where the department assures the payment of such loans; provided that upon receipt of notice of default in the payment of such assured loans, the department may, upon failure of the lessee to cure the default within sixty days, cancel the lease and pay the outstanding balance in full or may permit the new lessee to assume the outstanding debt; and provided further that the department shall reserve the following rights: the right of succession to the lessee's interest and assumption of the contract of loan; the right to require that written notice be given to the department immediately upon default or delinquency of the lessee; and any other rights enumerated at the time of assurance necessary to protect the monetary and other interests of the department;
- (5) Secure, pledge, or otherwise guarantee the repayment of moneys borrowed by the department from government agencies or private lending institutions and pay the interim interest or advances required for loans; provided that the State's liability, contingent or otherwise, either on moneys borrowed by the department or on departmental guarantees of loans made to lessees under this paragraph and paragraphs (2), (3), and (4) of this [section,] subsection, shall at no time exceed \$21,000,000; the department's guarantee of repayment shall be adequate security for a loan under any state law prescribing the nature, amount, or form of security or requiring security upon which loans may be made;
- (6) Use available loan fund moneys or other funds specifically available for such purposes as cash guarantees when required by lending agencies;
- (7) Exercise the functions and reserved rights of a lender of money or mortgagee of residential property in all direct loans made by government agencies or by private lending institutions to lessees the repayment of which is assured by the department. The functions and reserved rights shall include but not be limited to, the purchasing, repurchasing, servicing, selling, foreclosing, buying upon foreclosure, guaranteeing the repayment, or otherwise underwriting, of any loan, the protecting of security interest, and after foreclosures, the repairing, renovating, or modernization and sale of property covered by the loan and mortgage;
- (8) Pledge receivables of loan accounts outstanding as collateral to secure loans made by government agencies or private lending institutions to the department, the proceeds of which shall be used by the department to make new loans to lessees or to finance the development of available lands for purposes permitted by this Act; provided that any loan agreement entered into under this paragraph by the department shall include a provision that the money borrowed by the department is not secured directly or indirectly by the full faith and credit or the general credit of the State or by any revenues or taxes of the State other than the receivables specifically pledged to repay the loan; provided further that in making loans or developing available lands out of money borrowed under this paragraph, the department may establish, revise, charge, and collect fees, premiums, and charges as necessary, reasonable, or convenient, to assure repayment of the funds borrowed, and the fees, premiums, and

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"(j) Any mon this section shall be the next session aft appropriation shall the member was rec judgment, or at the r the entry of judgr appropriation is ena to effect a payment: the member to a l required by this sec

SECTION 3.
 read as follows:

"§39-34 Dis claiming adversely, of the bonds or cou stolen, the director claimants, if not wit service of process, o the State, and may b first judicial circuit, nation of the claima coupons. Jurisdiction mine, without a jury is entitled to the pa provided that the prescribed by sectio of a bond[,] before borne by the claima by any of the unsucc be deemed just. The court."

SECTION 4.
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"(d) Neither shall prohibit group under section 321-1 the handicapped, 1 persons, who are nc that such group livi

charges shall be deposited into the Hawaiian home trust fund; and provided further that no moneys of the Hawaiian home loan fund may be pledged as security under this paragraph; and

- (9) Notwithstanding any other provisions of this Act to the contrary, transfer into the Hawaiian home trust fund any available and unpledged moneys from any loan funds, the Hawaiian loan guarantee fund, or any fund or account succeeding thereto, except the Hawaiian home loan fund, for use as cash guarantees or reserves when required by a federal agency authorized to insure or guarantee loans to lessees."

SECTION 2. Section 26-35.5, Hawaii Revised Statutes, is amended by amending subsection (j) to read as follows:

"(j) Any moneys which the State is required to pay to a member under this section shall be paid from an appropriation made by the legislature at the next session after the requirement to pay inures to the member. The appropriation shall be sufficient to include any postjudgment interest which the member was required to pay if the member has personally satisfied the judgment, or at the rate specified in section [478-2] 478-3 for the period from the entry of judgment for which indemnification is available until the appropriation is enacted if the judgment was not satisfied. Any bill necessary to effect a payment required by subsections (h) and (i) shall be submitted by the member to a legislator; all other bills necessary to effect payments required by this section shall be initiated by the attorney general."

SECTION 3. Section 39-34, Hawaii Revised Statutes, is amended to read as follows:

"§39-34 Disputed ownership. If there are two or more claimants claiming adversely, each to the other or others, to be the holder in due course of the bonds or coupons alleged to have been lost, destroyed, defaced, or stolen, the director of finance may, in the director's discretion, require the claimants, if not within the State, to appoint agents within the State to accept service of process, or otherwise to submit to the jurisdiction of the courts of the State, and may bring suit on behalf of the State in the circuit court of the first judicial circuit, against the claimants, by interpleader, for the determination of the claimant or claimants entitled to the payment of the bonds or coupons. Jurisdiction is hereby conferred upon the court to hear and determine, without a jury, the suits and to determine whether any of the claimants is entitled to the payment, and, if so, which of the claimants is so entitled; provided that the determination shall not dispense with the conditions prescribed by section 39-33 requiring [six months to elapse, and] the giving of a bond[,] before the payment of the claims. The costs of the suit shall be borne by the claimants, and the court may decree the payment of such costs by any of the unsuccessful claimants, or the apportionments thereof, as may be deemed just. The decision of the court shall be appealable to the supreme court."

SECTION 4. Section 46-4, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Neither this section nor any other law, county ordinance, or rule shall prohibit group living in facilities licensed by the State as provided for under section 321-15.6 for persons, including the mentally ill, the elderly, the handicapped, the developmentally disabled, or the totally disabled persons, who are not related to the home operator or facility staff; provided that such group living facilities meet all applicable county requirements, not

attorney shall be appointed by the chairperson from a list of not less than thirty-five attorneys experienced in trial practice submitted annually by the supreme court. The physician or surgeon shall be appointed by the chairperson from a list of not less than thirty-five physicians or surgeons licensed under chapter 453 submitted annually by the board of medical examiners or from a list of not less than eight [physicians or] physicians and surgeons licensed under chapter 460 submitted annually by the board of osteopathic examiners.

The chairperson shall preside at the meetings of the panel. The chairperson and all panel members shall be compensated at the rate of \$100 per claim handled which will become payable when the decision of the panel is submitted and shall be paid allowances for travel and living expenses which may be incurred as a result of the performance of their duties on the panel. Such costs shall be paid by the department of commerce and consumer affairs.

The office and meeting space, secretarial and clerical assistance, office equipment, and office supplies for the panel shall be furnished by the department.

The board of medical examiners and board of osteopathic examiners shall each prepare a list of physicians, surgeons, or physicians and surgeons, as the case may be, along with their respective specialties who shall then be considered consultants to the panel in their respective fields. Panel members may consult with other legal, medical, and insurance specialists. Any consultant called by the panel to appear before the panel shall be paid an allowance for travel and living expenses which may be incurred as a result of such person's appearance before the panel. Such costs shall be paid by the department."

SECTION 66. Section 802-10, Hawaii Revised Statutes, is repealed.

SECTION 67. Section 806-56, Hawaii Revised Statutes, is amended to read as follows:

"§806-56 Nolle prosequi. No nolle prosequi shall be entered in a criminal case in a court of record except by consent of the court upon written motion of the prosecuting attorney stating the reasons [therefore.] therefor. The court may deny the motion if it deems the reasons insufficient and if, upon further investigation, it decides that the prosecution should continue, it may, if in its opinion the interests of justice require it, appoint a special prosecutor to conduct the case and allow the special prosecutor a fee. [The proviso of section 801-5] Section 802-5(b) relative to fees allowed counsel assigned by the court for a defendant is made applicable to fees of special prosecutors appointed hereunder."

SECTION 68. Act 320, Session Laws of Hawaii 1986, is amended by amending section 8 to read as follows:

"SECTION 8. This Act shall take effect on July 1, 1986, and be repealed as of June 30, 1989[.]; provided that on repeal sections 37-34, 37-35, 37-36, 37-37, and 37-74, Hawaii Revised Statutes, are reenacted in the form in which they read on June 30, 1986."

SECTION 69. Act 321, Session Laws of Hawaii 1986, is amended by amending section 12 to read as follows:

"SECTION 12. This Act shall take effect on July 1, 1986, and be repealed as of June 30, 1989[.]; provided that on repeal sections 40-1, 40-2,

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SECTION 1. Th
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40-4, 40-6, 40-81, and 103-23, Hawaii Revised Statutes, are reenacted in the form in which they read on June 30, 1986."

SECTION 70. Act 342, Session Laws of Hawaii 1986, is amended by amending section 9 to read as follows:

"SECTION 9. This Act shall take effect on October 1, 1986, and shall be repealed as of September 30, 1991[.]; provided that on repeal sections 281-1, 281-78, 294-13, 712-1250.5, and 712-1252, Hawaii Revised Statutes, are reenacted in the form in which they read on September 30, 1986."

SECTION 71. This Act shall be amended to conform to all other acts passed by the legislature during this Regular Session of 1987, whether enacted before or after the effective date of this Act, unless such other acts specifically provided otherwise.

SECTION 72. Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 73. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

ACT 284

S.B. NO. 1201

A Bill for an Act Relating to Monetary Laundering.

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

SECTION 1. The Hawaii Revised Statutes is amended by amending a new section¹ to be appropriately designated and to read as follows:

"§708- **Monetary laundering.** (1) Any person who conducts or attempts to conduct a transaction involving a monetary instrument or instruments of a value exceeding \$5,000 through a financial institution (a) with the intent to promote, manage, establish, carry on, conceal, disguise, or facilitate the promotion, management, establishment, carrying on, concealment, or disguising of any criminal activity, or (b) knowing that the monetary instrument represents the proceeds of, or is derived directly or indirectly from the proceeds of, criminal activity, is guilty of the crime of money laundering.

(2) Money laundering is a class C felony.

§708- **Definition of terms.** In this part, unless a different meaning plainly is required:

"Conducts" means to initiate, conclude or participate in conducting, initiating or concluding a transaction.

"Transaction" means the deposit, withdrawal, transfer, bailment, loan, pledge, payment, or exchange of monetary instrument.

"Monetary instrument" means U.S. and foreign currency, bank checks, cashier's checks, traveler's checks, money orders and other bearer instruments, as well as precious metals and stones.

"Financial institution" means any kind of business or enterprise which might be expected to receive or transact large sums of cash or monetary instruments.