
A BILL FOR AN ACT

RELATING TO ETHICS.

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

1 SECTION 1. The Legislature finds that maintaining the
2 public's trust in government officials is vital to the strength of
3 our democracy. As Article XIV of the Hawaii Constitution
4 proclaims, "The people of Hawaii believe that public officers and
5 employees must exhibit the highest standards of ethical conduct
6 and that these standards come from the personal integrity of each
7 individual in government." While some of our sister states have
8 been rocked by corruption scandals in recent years - caused by
9 poor ethics laws, inadequate enforcement of those laws, or both -
10 Hawaii takes pride in its strong ethics laws, and the commitment
11 of more than 50,000 state employees who demonstrate the ideals of
12 public service every day.

13 The Legislature recognizes the importance of ethics education
14 and advice in preventing ethics violations from occurring. This
15 Act will clarify existing statutes to allow the Ethics Commission

1 and its staff to better educate and advise state employees,
2 legislators, lobbyists, and the public.

3 The Legislature further finds that a recent statutory change
4 designed to clarify the application of the Ethics Code to task
5 force members had the unintended effect of changing the law with
6 respect to legislators as well; this Act restores earlier language
7 that protects legislators when carrying out a "legislative
8 function."

9 The Legislature also finds that Hawaii's lobbyist
10 registration law is both under- and over-inclusive, such that
11 amending the definitions of "lobbying" and "lobbyist" will provide
12 additional transparency to the public while relieving some
13 individuals (specifically, certain representatives of charitable,
14 non-profit organizations) from having to register as lobbyists.
15 Similarly, the Legislature finds that several provisions of the
16 lobbyists law can be streamlined to avoid unnecessary paperwork
17 and to remove statutory remnants left over from when a violation
18 of the lobbyists law carried criminal penalties.

19 The Legislature further finds that the current maximum
20 penalty that the Ethics Commission can impose for a violation of
21 the Ethics Code is \$500 per violation, but that this penalty
22 amount has not been adjusted since being set by the Legislature in
23 1992; adjusted for inflation, an equivalent penalty would be more

1 than \$858.00 in 2016 dollars, such that the current statutory
2 penalty should be increased to \$1,000. The maximum penalty for
3 violating the Lobbyists Law has also remained at \$500 since 1995
4 and should likewise be increased to \$1,000. Similarly:

- 5 - The fine for legislators, employees, and
6 board/commission members for failing to file a financial
7 disclosure report on time was set in 1995 at \$50; an
8 equivalent fine would be over \$79 in 2016 dollars. This
9 Act increases the fine to \$75 to account for inflation.
- 10 - The fine for candidates for state elective office for
11 failing to file a financial disclosure report on time
12 was set in 1995 at \$25; an equivalent fine would be
13 approximately \$40 in 2016 dollars. This Act increases
14 the fine to \$50.

15 Likewise, this Act increases the threshold for registering as
16 a lobbyist and for filing certain lobbying expenditure statements
17 from \$750 to \$1,000.

18 The Legislature further finds that the expense of sending
19 letters by registered mail, return receipt requested, to those who
20 fail to file their financial disclosures on time is no longer
21 justified; in 2016, each letter cost \$14.87 in postage, and the
22 Ethics Commission sent nearly 100 letters - an unnecessary
23 expenditure of over \$1,000 in postage for a communication that

1 could have been sent to users' state e-mail accounts and/or by
2 first-class mail.

3 Accordingly, the purpose of this Act is to provide additional
4 clarity and consistency in the administration and enforcement of
5 Hawaii's ethics laws, and to promote integrity in state
6 government, by:

- 7 (1) Clarifying the procedures used by the Hawaii State Ethics
8 Commission and its staff for providing advice on ethics
9 issues; educating employees, legislators, lobbyists, and the
10 general public; collecting and publishing information from
11 public employees, candidates, and lobbyists; and resolving
12 investigations;
- 13 (2) Restoring previous statutory language protecting legislators
14 when carrying out a "legislative function";
- 15 (3) Clarifying the fair treatment and conflict of interest law
16 with respect to task force members and legislators by
17 restoring previous statutory language regarding a
18 legislator's "legislative function" and requiring the ethics
19 commission to promulgate rules regarding disclosures for task
20 force members;
- 21 (4) Increasing the maximum penalties that the Commission may
22 impose and increasing the threshold for filing lobbying

1 expenditure reports and registering as a lobbyist to account
2 for inflation;

3 (5) Allowing the Commission to notify individuals who fail to
4 file their financial disclosures by the statutory deadline by
5 e-mail and/or first-class mail, rather than by registered
6 mail, return receipt requested;

7 (6) Removing the mens rea requirement to prove a violation of the
8 lobbyists law, recognizing that the failure to file a report
9 required by chapter 97 is no longer a criminal offense;

10 (7) Clarifying the definition of "lobbying" to promote
11 transparency in the legislative process;

12 (8) Granting the employer of a lobbyist the ability to terminate
13 a registered lobbyist, in the event that a lobbyist does not
14 terminate her- or himself; and

15 (9) Making technical, nonsubstantive amendments for the purposes
16 of clarity and consistency.

17
18 SECTION 2. Section 28-8.3, Hawaii Revised Statutes, is
19 amended to read as follows:

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

21 "(a) No department of the State other than the attorney
22 general may employ or retain any attorney, by contract or
23 otherwise, for the purpose of representing the State or the

1 department in any litigation, rendering legal counsel to the
2 department, or drafting legal documents for the department;
3 provided that the foregoing provision shall not apply to the
4 employment or retention of attorneys:

5 (1) By the public utilities commission, the labor and
6 industrial relations appeals board, and the Hawaii
7 labor relations board;

8 (2) By any court or judicial or legislative office of
9 the State; provided that if the attorney general is
10 requested to provide representation to a court or
11 judicial office by the chief justice or the chief
12 justice's designee, or to a legislative office by
13 the speaker of the house of representatives and the
14 president of the senate jointly, and the attorney
15 general declines to provide such representation on
16 the grounds of conflict of interest, the attorney
17 general shall retain an attorney for the court,
18 judicial, or legislative office, subject to
19 approval by the court, judicial, or legislative
20 office;

21 (3) By the legislative reference bureau;

22 (4) By any compilation commission that may be
23 constituted from time to time;

- 1 (5) By the real estate commission for any action
- 2 involving the real estate recovery fund;
- 3 (6) By the contractors license board for any action
- 4 involving the contractors recovery fund;
- 5 (7) By the office of Hawaiian affairs;
- 6 (8) By the department of commerce and consumer affairs
- 7 for the enforcement of violations of chapters 480
- 8 and 485A;
- 9 (9) As grand jury counsel;
- 10 (10) By the Hawaii health systems corporation, or its
- 11 regional system boards, or any of their facilities;
- 12 (11) By the auditor;
- 13 (12) By the office of ombudsman;
- 14 (13) By the insurance division;
- 15 (14) By the University of Hawaii;
- 16 (15) By the Kahoolawe island reserve commission;
- 17 (16) By the division of consumer advocacy;
- 18 (17) By the office of elections;
- 19 (18) By the campaign spending commission;
- 20 (19) By the Hawaii tourism authority, as provided in
- 21 section 201B-2.5;
- 22 (20) By the division of financial institutions for any
- 23 action involving the mortgage loan recovery fund;

1 (21) By the office of information practices; [~~or~~]

2 (22) By the state ethics commission; or

3 (23) By a department, if the attorney general, for
4 reasons deemed by the attorney general to be good and
5 sufficient, declines to employ or retain an attorney for
6 a department; provided that the governor thereupon
7 waives the provision of this section.

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

9 "(c) Every attorney employed by any department on a
10 full-time basis, except an attorney employed by the public
11 utilities commission, the labor and industrial relations
12 appeals board, the Hawaii labor relations board, the office
13 of Hawaiian affairs, the Hawaii health systems corporation or
14 its regional system boards, the department of commerce and
15 consumer affairs in prosecution of consumer complaints,
16 insurance division, the division of consumer advocacy, the
17 University of Hawaii, the Hawaii tourism authority as
18 provided in section 201B-2.5, the office of information
19 practices, the state ethics commission, or as grand jury
20 counsel, shall be a deputy attorney general."

1 SECTION 3. Section 84-13, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "(a) No legislator or employee shall use or attempt to
4 use the legislator's or employee's official position to
5 secure or grant unwarranted privileges, exemptions,
6 advantages, contracts, or treatment, for oneself or others;
7 including but not limited to the following:

8 (1) Seeking other employment or contract for services
9 for oneself by the use or attempted use of the
10 legislator's or employee's office or position.

11 (2) Accepting, receiving, or soliciting compensation or
12 other consideration for the performance of the
13 legislator's or employee's official duties or
14 responsibilities except as provided by law.

15 (3) Using state time, equipment or other facilities for
16 private business purposes.

17 (4) Soliciting, selling, or otherwise engaging in a
18 substantial financial transaction with a
19 subordinate or a person or business whom the
20 legislator or employee inspects or supervises in
21 the legislator's or employee's official capacity.

22 (b) Nothing [~~herein~~] in this section shall be construed
23 to prohibit a legislator from introducing bills and

1 resolutions, [~~or to prevent a person from serving on a task~~
2 ~~force or~~] from serving on [~~a task force committee,~~
3 committees, or from making statements or taking [~~official~~]
4 action [~~as a legislator, or a task force member or a task~~
5 ~~force member's designee or representative.] in the exercise~~
6 of the legislator's legislative functions. Every
7 legislator[~~, or task force member or designee or~~
8 ~~representative of a task force member~~] shall [~~file a full and~~
9 ~~complete public disclosure~~] publicly disclose [~~of~~] the nature
10 and extent of the interest or transaction which the
11 legislator [~~or task force member or task force member's~~
12 ~~designee or representative~~] believes may be affected by [~~the~~
13 ~~legislator's or task force member's official action.]~~
14 legislative action. Each house of the legislature shall
15 establish rules to provide for this public disclosure.

16 (c) Nothing in this section shall be construed to
17 prevent a person from serving on a task force or a task force
18 committee, or from making statements or taking official
19 action as a task force member or a task force member's
20 designee or representative. Every task force member or
21 designee or representative of a task force member shall
22 publicly disclose the nature and extent of any interest or
23 transaction which the task force member or task force

1 member's designee or representative believes may be affected
2 by the task force member's official action. The state ethics
3 commission shall establish rules to provide for this public
4 disclosure."

5
6 SECTION 4. Section 84-14, Hawaii Revised Statutes, is
7 amended by amending subsection (f) as follows:

8 (f) [~~Subsections (a), (b), and (d) shall not apply to a~~
9 ~~task force member or the designee or representative of that~~
10 ~~task force member whose service as a task force member would~~
11 ~~not otherwise cause that member, designee, or representative~~
12 ~~to be considered an employee, if the task force member or the~~
13 ~~designee or representative of that task force member complies~~
14 ~~with the disclosure requirements under section 84-17.]~~

15 Nothing in this section shall be construed to prevent a
16 person from serving on a task force or a task force
17 committee, or from making statements or taking official
18 action as a task force member or a task force member's
19 designee or representative. Every task force member or
20 designee or representative of a task force member shall
21 publicly disclose the nature and extent of any interest or
22 transaction which the task force member or task force
23 member's designee or representative believes may be affected

1 by the task force member's official action. The state ethics
2 commission shall establish rules to provide for this public
3 disclosure."

4
5 SECTION 5. Section 84-17, Hawaii Revised Statutes, is
6 amended by amending subsections (i) and (j) to read as follows:

7 "(i) Failure of a legislator, a delegate to the
8 constitutional convention, or employee to file a disclosure
9 of financial interests as required by this section shall be a
10 violation of this chapter. Any legislator, delegate to a
11 constitutional convention, or employee who fails to file a
12 disclosure of financial interests when due shall be assessed
13 an administrative fine of [~~\$50~~] \$75. The ethics commission,
14 upon the expiration of the time allowed for filing, shall
15 release to the public a list of all persons who have failed
16 to file financial disclosure statements. The state ethics
17 commission shall notify a person, by [~~registered mail, return~~
18 ~~receipt requested~~] electronic mail to the person's state e-
19 mail address or by first-class mail, of the failure to file,
20 and the disclosure of financial interests shall be submitted
21 to the commission not later than 4:30 p.m. on the tenth day
22 after notification of the failure to file has been mailed to
23 the person. If a disclosure of financial interests has not

1 been filed within ten days of the due date, an additional
2 administrative fine of \$10 for each day a disclosure remains
3 unfiled shall be added to the administrative fine. All
4 administrative fines collected under this section shall be
5 deposited in the State's general fund. Any administrative
6 fine for late filing shall be in addition to any other action
7 the commission may take under this chapter for violations of
8 the state ethics code. The commission may waive any
9 administrative fines assessed under this subsection for good
10 cause shown.

11 (j) The chief election officer, upon receipt of the
12 nomination paper of any person seeking a state elective
13 office, including the office of delegate to the
14 constitutional convention, shall notify the ethics commission
15 of the name of the candidate for state office and the date on
16 which the person filed the nomination paper. The ethics
17 commission, upon the expiration of the time allowed for
18 filing, shall release to the public a list of all candidates
19 who have failed to file financial disclosure statements and
20 shall immediately assess a late filing penalty fee against
21 those candidates of [~~\$25~~] \$50 which shall be collected by the
22 state ethics commission and deposited into the general fund.
23 The ethics commission may investigate, initiate, or receive

1 charges as to whether a candidate's financial disclosure
2 statement discloses the financial interests required to be
3 disclosed. After proceeding in conformance with section 84-
4 31, the ethics commission may issue a decision as to whether
5 a candidate has complied with section 84-17(f) and this
6 decision shall be a matter of public record.

7
8 SECTION 6. Section 84-31, Hawaii Revised Statutes, is amended
9 as follows:

10 "(a) The ethics commission shall have the following
11 powers and duties:

12 . . .

13 (2) It shall render advisory opinions upon the request
14 of any legislator, employee, or delegate to the
15 constitutional convention, or person formerly
16 holding such office or employment as to whether the
17 facts and circumstances of a particular case
18 constitute or will constitute a violation of the
19 code of ethics, section 11-8, or section 11-316.

20 If no advisory opinion is rendered within [~~thirty~~]
21 ninety days after the request is filed with the
22 commission, it shall be deemed that an advisory
23 opinion was rendered and that the facts and

1 circumstances of that particular case do not
2 constitute a violation of the code of ethics. The
3 opinion rendered or deemed rendered, until amended
4 or revoked, shall be binding on the commission in
5 any subsequent charges concerning the legislator,
6 employee, or delegate to the constitutional
7 convention, or person formerly holding such office
8 or employment, who sought the opinion and acted in
9 reliance on it in good faith, unless material facts
10 were omitted or misstated by such persons in the
11 request for an advisory opinion;

- 12 (3) It shall initiate, receive, and consider charges
13 concerning alleged violation of this chapter,
14 initiate or make investigation, and hold
15 hearings[+]. The commission and the subject(s) of
16 any investigation or charge may agree to resolve
17 any alleged violation of this chapter at any time.
18 Any such resolution shall be in writing and shall
19 be signed by three or more members of the
20 commission and by the subject(s) of any
21 investigation or charge. The resolution shall have
22 the force and effect of a final decision and order

1 issued after a contested case hearing and shall not
2 be appealable;"

3 . . .

4 (7) It shall distribute its publications without cost
5 to the public and shall initiate and maintain
6 programs with the purpose of educating the
7 citizenry and all legislators, delegates to the
8 constitutional convention, and employees on matters
9 of ethics in government employment. It may issue
10 guidance regarding the application of this chapter,
11 provided that such guidance shall not have the
12 force and effect of law; [and]

13 (8) It shall administer any code of ethics adopted by a
14 state constitutional convention, subject to the
15 procedural requirements of this part and any rules
16 adopted thereunder[-]; and

17 (9) It may authorize its staff to provide confidential
18 guidance to any individual as to whether the facts
19 and circumstances of a particular case constitute
20 or would constitute a violation under this chapter,
21 section 11-8, and 11-316, provided that nothing
22 herein shall establish an attorney-client
23 relationship between the person seeking advice and

1 the commission or its staff. Any written guidance
2 rendered by commission staff advising that proposed
3 conduct is allowable shall, until amended or
4 revoked, be binding upon the commission in any
5 subsequent charges concerning the individual who
6 sought the guidance and acted in reliance on it in
7 good faith, unless material facts were omitted or
8 misstated by such persons in the request for
9 guidance. Nothing in this subsection shall prevent
10 the commission or its staff from investigating
11 alleged violations of this chapter."

12
13 SECTION 7. Section 84-39, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "(a) Where an administrative fine has not been
16 established for a violation of a provision of this chapter,
17 any person, including a legislator or employee, who violates
18 a provision of this chapter shall be subject to an
19 administrative fine imposed by the ethics commission that
20 shall not exceed [~~\$500~~] \$1,000 for each violation. All fines
21 collected under this section shall be deposited in the
22 general fund.

1 (b) No fine shall be assessed under this section
2 unless:

3 (1) The commission convenes a hearing in accordance
4 with section 84-31(c) and chapter 91[+] and
5 [~~2~~-A] a decision has been rendered by the
6 commission[-]; or

7 (2) the commission and respondent agree to resolve
8 an alleged violation prior to completion of the
9 contested case process and the resolution includes
10 payment of an administrative fine and/or
11 restitution."

12
13 SECTION 8. Section 97-1, Hawaii Revised Statutes, is
14 amended by amending the definitions of "expenditure," "lobbyist,"
15 and "lobbying" to read as follows:

16 "(4) "Expenditure" includes a payment, distribution,
17 forgiveness of a loan, advance, deposit, or gift of money, or
18 anything of value and includes a contract, promise, or
19 agreement, whether or not enforceable, to make an
20 expenditure. "Expenditure" also includes compensation or
21 other consideration paid to a lobbyist for the performance of
22 lobbying services. [~~"Expenditure" excludes the expenses of~~

1 ~~preparing written testimony and exhibits for a hearing before~~
2 ~~the legislature or an administrative agency.]~~

3 . . .

4 (6) "Lobbyist" means any individual who:

5 (A) receives or expects to receive, either by
6 employment or contract, more than \$1,000 in
7 monetary or in-kind compensation in any
8 calendar year for engaging in lobbying, either
9 personally or through his or her agents; or

10 (B) for pay or other consideration:

11 (i) engages in lobbying in excess of five
12 hours in any month of any reporting
13 period described in section 97-3; [~~or~~]

14 (ii) engages in lobbying in excess of ten
15 hours during any calendar year;

16 (iii) engages in lobbying on three or more
17 bills, resolutions, or both, during any
18 legislative session; or

19 (iv) spends more than [~~\$750~~] \$1,000 of the
20 person's or any other person's money
21 lobbying during any reporting period
22 described in section 97-3.

1 (7) "Lobbying" means communicating directly or through
2 an agent, or soliciting others to communicate, with any
3 official in the legislative or executive branch, for the
4 purpose of attempting to influence legislative or
5 administrative action or a ballot issue. "Lobbying" shall
6 not include the preparation and submission of a grant
7 application pursuant to chapter 42F by a representative of a
8 nonprofit organization, but does include any communication
9 with any official in the legislative or executive branch for
10 the purpose of attempting to influence action on any existing
11 or future grant application."

12
13 SECTION 9. Section 97-2, Hawaii Revised Statutes, is
14 amended by amending subsection (d) to read as follows:

15 "(d) A lobbyist shall file a notice of termination
16 within ten days after the lobbyist ceases the activity which
17 required the lobbyist's registration[-]; if the lobbyist
18 fails to file a notice of termination, the person who
19 employed or contracted for the services of the lobbyist may
20 file such notice. The lobbyist and the person who employed
21 or contracted for the services [employer] of the lobbyist
22 shall remain subject, however, to the requirements of chapter

1 97 for the period during which the registration was
2 effective."

3
4 SECTION 10. Section 97-3, Hawaii Revised Statutes, is
5 amended as follows:

6 "(a) The following persons shall file a statement of
7 expenditures with the state ethics commission on March 31,
8 May 31, and January 31 of each year and within thirty days
9 after adjournment sine die of any special session of the
10 legislature:

11 (1) Each lobbyist.

12 (2) Each person who spends \$1,000 [~~\$750~~] or more of the
13 person's or any other person's money in any
14 reporting period described in section 97-3 [~~six-~~
15 ~~month period~~] for the purpose of attempting to
16 influence legislative or administrative action or a
17 ballot issue by communicating or urging others to
18 communicate with public officials; provided that
19 any amounts expended for intra-state travel costs,
20 including incidental meals and lodging, shall not
21 be included in the tallying of the [~~\$750~~] \$1,000
22 and need not be reported, and provided further that
23 any amounts expended by a nonprofit organization to

1 prepare and submit a grant application pursuant to
2 chapter 42F shall likewise not be included in the
3 tallying of the [~~\$750~~] \$1,000 and need not be
4 reported.

- 5 (3) Each person who employs or contracts for the
6 services of one or more lobbyists, whether
7 independently or jointly with other persons. If
8 the person is an industry, trade, or professional
9 association, only the association is the employer
10 of the lobbyist.

11 (b) The March 31 report shall cover the period from
12 January 1 through the last day of February. The May 31
13 report shall cover the period from March 1 through April 30.
14 The January 31 report shall cover the period from May 1
15 through December 31 of the previous year. The report to be
16 filed within thirty days after adjournment sine die of a
17 special session of the legislature shall [~~cover~~]:

- 18 (1) Cover the period from May 1 through adjournment
19 sine die of that special session [~~and shall apply~~];
20 (2) Be filed only by persons listed in subsection (a)
21 who engage in lobbying activities, or who make
22 expenditures, for the purpose of attempting to

1 influence legislative action considered during a
2 special session; and

3 (3) Apply to and include only those expenditures and
4 contributions that relate to legislative action
5 considered during that special session~~[]~~;
6 provided that those expenditures and contributions included
7 in the report need not be included by the person filing the
8 report in any subsequent statement of expenditures."

9 (c) The statement shall contain the following
10 information:

11 (1) The name and address of each person with respect to
12 whom expenditures for the purpose of lobbying in
13 the total sum of \$25 or more per day was made by
14 the person filing the statement during the
15 statement period and the amount or value of [~~such~~]
16 the expenditure;

17 (2) The name and address of each person with respect to
18 whom expenditures for the purpose of lobbying in
19 the aggregate of \$150 or more was made by the
20 person filing the statement during the statement
21 period and the amount or value of [~~such~~] the
22 expenditures;

1 (3) The total sum or value of all expenditures for the
2 purpose of lobbying made by the person filing the
3 statement during the statement period [~~in excess of~~
4 ~~\$750 during the statement period~~], provided that
5 the sum or value of each expenditure is itemized in
6 the following categories, as applicable:

7 (A) Preparation and distribution of lobbying
8 materials;

9 (B) Media advertising;

10 (C) Compensation paid to lobbyists;

11 (D) Fees paid to consultants [~~or~~] for services;

12 (E) Entertainment and events;

13 (F) Receptions, meals, food, and beverages;

14 (G) Gifts;

15 (H) Loans; [~~and~~]

16 (I) Inter-state transportation, including
17 incidental meals and lodging; and

18 (J) Other disbursements.

19 (4) The name and address of each person making
20 contributions to the person filing the statement
21 for the purpose of lobbying in the total sum of \$25
22 or more during the statement period and the amount
23 or value of [~~such~~] the contributions; and

1 (5) The subject area of the legislative and
2 administrative action which was supported or
3 opposed by the person filing the statement during
4 the statement period."

5
6 SECTION 11. Section 97-4.5, Hawaii Revised Statutes, is
7 amended to read as follows:

8 ~~"[As soon as is feasible after the commencement of each~~
9 ~~regular session of the legislature, the state ethics~~
10 ~~commission shall publish a list of registered lobbyists, the~~
11 ~~names of the persons whom they represent, and other pertinent~~
12 ~~information but shall not include in such list the addresses~~
13 ~~of the lobbyists. The list shall be supplemented from time~~
14 ~~to time as may be necessary.] All lobbyist registration~~
15 ~~statements shall be posted on the ethics commission's website~~
16 ~~within a reasonable time after filing, and may be removed~~
17 ~~from the website after four years."~~

18
19 SECTION 12. Section 97-6, Hawaii Revised Statutes, is
20 amended as follows:

21 "(a) The state ethics commission shall administer and
22 implement this chapter, and shall have the following powers
23 and duties:

- 1 (1) Initiate, receive, and consider charges concerning
2 alleged violations of this chapter, and investigate
3 or cause to be investigated on a confidential
4 basis, the activities of any person to determine
5 whether the person is in compliance with this
6 chapter[+]. The commission and the subject(s) of
7 any investigation or charge may agree to resolve
8 any alleged violation of this chapter at any time.
9 Any such resolution shall be in writing and shall
10 be signed by three or more members of the
11 commission and by the subject(s) of any
12 investigation or charge. The resolution shall have
13 the force and effect of a final decision and order
14 issued after a contested case hearing and shall not
15 be appealable;"
- 16 (2) Prescribe forms for the statements and reports
17 required by sections 97-2 and 97-3 and establish
18 orderly procedures for implementing the
19 requirements of those provisions;
- 20 (3) Render advisory opinions upon the request of any
21 person subject to this chapter. If no advisory
22 opinion is rendered within [~~thirty~~] ninety days
23 after the request is filed with the commission, it

1 shall be deemed that an advisory opinion was
2 rendered and that the facts and circumstances of
3 that particular case do not constitute a violation
4 of this chapter. The opinion rendered or deemed
5 rendered, until amended or revoked, shall be
6 binding on the commission in any subsequent charges
7 concerning the person subject to this chapter who
8 sought the opinion and acted in reliance on it in
9 good faith, unless material facts were omitted or
10 misstated by the person in the request for an
11 advisory opinion;

12 (4) Issue subpoenas, administer oaths, and exercise
13 those powers conferred upon the commission by
14 section 92-16;

15 (5) Adopt rules, not inconsistent with this chapter, as
16 in the judgment of the commission seem appropriate
17 for the carrying out of this chapter and for the
18 efficient administration of this chapter, including
19 every matter or thing required to be done or which
20 may be done with the approval or consent or by
21 order or under the direction or supervision of, or
22 as prescribed by, the commission. The rules, when

1 adopted as provided in chapter 91, shall have the
2 force and effect of law; [~~and~~]

3 (6) Have jurisdiction for purposes of investigation and
4 taking appropriate action on alleged violations of
5 this chapter in all proceedings commenced within
6 three years of an alleged violation of this
7 chapter. A proceeding shall be deemed commenced by
8 the filing of a charge with the commission or by
9 the signing of a charge by three or more members of
10 the commission. Nothing shall bar proceedings
11 against a person who by fraud or other device
12 prevents discovery of a violation of this
13 chapter[~~-~~];

14 (7) Issue guidance regarding the application of this
15 chapter, provided that such guidance shall not have
16 the force and effect of law;

17 Authorize its staff to provide confidential guidance to
18 any individual as to whether the facts and circumstances of a
19 particular case constitute or will constitute a violation
20 under this chapter, provided that nothing herein shall
21 establish an attorney-client relationship between the person
22 seeking advice and the commission or its staff. Any written
23 guidance rendered by commission staff advising that proposed

1 conduct is allowable shall, until amended or revoked, be
2 binding upon the commission in any subsequent charges
3 concerning the individual who sought the guidance and acted
4 in reliance on it in good faith, unless material facts were
5 omitted or misstated by such persons in the request for
6 guidance. Nothing in this subsection shall prevent the
7 commission or its staff from investigating alleged violations
8 of this chapter."

9
10 SECTION 13. Section 97-7, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) Any person who:

- 13 (1) [~~Wilfully fails~~] Fails to file any statement or
14 report required by this chapter;
- 15 (2) [~~Wilfully files~~] Files a statement or report
16 containing false information or material omission
17 of any fact;
- 18 (3) Engages in activities prohibited by section 97-5;
19 or
- 20 (4) Fails to provide information required by section
21 97-2 or 97-3;

22 shall be subject to an administrative fine imposed by the
23 commission that shall not exceed [~~\$500~~] \$1,000 for each

1 violation of this chapter. All fines collected under this
2 section shall be deposited into the general fund."

3
4 SECTION 14. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6
7 SECTION 15. The state ethics commission may, in its
8 discretion, make any changes that it deems necessary to internal
9 procedures or forms to aid in the implementation of this Act.

10
11 SECTION 16. If any provision of this Act, or the
12 application thereof to any person or circumstance, is held
13 invalid, the invalidity does not affect other provisions or
14 applications of the Act that can be given effect without the
15 invalid provision or application, and to this end the provisions
16 of this Act are severable.

17
18 SECTION 17. This Act does not affect rights and duties
19 that matured, penalties that were incurred, and proceedings that
20 were begun before its effective date.

21
22 SECTION 18. This Act shall take effect upon its approval.

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INTRODUCED BY: _____

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