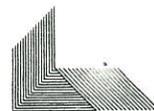

Sunset Evaluation Report: Auctions, Pawnbrokers, Secondhand Dealers, and Scrap Dealers

A Report to the
Governor
and the
Legislature of
the State of
Hawaii



THE AUDITOR
STATE OF HAWAII

Sunset Evaluation Report: Auctions, Pawnbrokers, Secondhand Dealers, and Scrap Dealers

A Report to the
Governor
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the State of
Hawaii

Submitted by

THE AUDITOR
STATE OF HAWAII

Report No. 91-19
December 1991

Foreword

Hawaii's Sunset Law, or the Hawaii Regulatory Licensing Reform Act of 1977, schedules regulatory programs for termination on a periodic cycle. Unless specifically reestablished by the Legislature, the programs are repealed. The auditor is responsible for evaluating each program for the Legislature prior to the date of repeal.

This report evaluates the regulation of auctions, pawnbrokers, secondhand dealers, and scrap dealers under Chapter 445, Hawaii Revised Statutes. It focuses on the question of whether regulatory control should rest with the State or the counties. It includes in Appendix B the draft legislation to implement our recommendations.

We acknowledge the cooperation and assistance of the county finance and police officials and others whom we contacted during the course of our evaluation. We appreciate the assistance of the Legislative Reference Bureau, which drafted the recommended legislation.

Newton Sue
Acting Auditor
State of Hawaii

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Chapter 1

Background

The Sunset Law, or the Hawaii Regulatory Licensing Reform Act, Chapter 26H, Hawaii Revised Statutes, repeals occupational licensing statutes according to a specified timetable. The law establishes policies for occupational licensing and directs the auditor to evaluate each licensing statute prior to its repeal to determine if the health, safety, and welfare of the public are best served by reenactment, modification, or repeal.

This report examines county licensing under the following sections of Chapter 445, HRS:

Auctions (Sections 445-21 to 38);
Pawnbrokers (Sections 445-131 to 136);
Secondhand Dealers (Sections 445-171 to 172); and
Scrap Dealers (Sections 445-231 to 235).

These sections are scheduled for repeal under the Sunset Law on December 31, 1992.

Statutory Basis for County Licensing

Chapter 445, HRS, establishes county licensing for the business activities discussed in this report, as well as for such entities and activities as hotels, restaurants, and peddling. Section 46-1.5(7), HRS, which governs the general jurisdiction and powers of all counties, authorizes each county to exercise the regulatory powers over business activity assigned by Chapter 445.

Under the general provisions of Chapter 445, the county councils may control regulation by ordinances consistent with state law, may set and waive fees, and may adopt rules governing the conduct of the licensed businesses. The law authorizes the treasurer or finance director of the county where the business will operate to issue licenses and collect fees. It forbids doing business without a license and designates the county police and authorized representatives of the county directors of finance as license inspectors.

County versus state control

Over the years, and until very recently, the laws have given the counties increasing authority to regulate these licensing programs. Auctioneers were first regulated by the Kingdom in 1846,¹ and pawnbrokers and secondhand dealers became regulated by the Territory in 1905.² In 1909,

however, Act 151 transferred regulatory authority to the counties, including the power to issue licenses and collect fees.

In 1913, the Territorial Legislature gave counties the power to adopt rules on the conduct of businesses licensed by the counties.³ The purpose, according to the committee report accompanying the legislation, was “to give the several Boards of Supervisors more control over the businesses which have been licensed by the laws of the Territory by giving them the power to make such rules and regulations as may be necessary for the public good.”⁴

Again in 1955, the Legislature gave the boards of supervisors power to require licenses and to impose fees for businesses within the counties except for those entities subject to territorial regulation.⁵ The committee report said that the purpose was “to authorize the counties to establish business licenses, rather than continue to have the Legislature specify what licenses are to be required.”⁶

In 1957, the Legislature gave the boards of supervisors power to exempt charitable and nonprofit organizations from licensing fees.⁷ Ten years later the Legislature restricted the scope of operations of businesses to the jurisdiction of the county issuing the license.⁸ The Senate Committee on the Judiciary noted that “counties should have the authority to regulate businesses which are not immune from county regulations, and the right to determine the specific place or location where business is being conducted.”⁹

In 1986, the Legislature further expanded county control by giving counties the authority to decide whether to license. Act 59 amended Section 445-15(1) to give the county councils the power to require, or *eliminate the requirement for*, annual licenses for any of the Chapter 445 businesses. Following enactment, the counties of Kauai and Hawaii eliminated licensing of several Chapter 445 businesses (including auctions on Kauai).¹⁰

Both the Legislature and the counties supported the measure. The legislative committees reported that granting specific authority to the counties to eliminate licensing would probably result in more efficient local government.¹¹ The finance director of the City and County of Honolulu testified that the amendment would allow each county council to pass ordinances to eliminate conflicting or unnecessary licensing requirements. He said several county licenses were out-of-date or duplicated state regulation and that each county should be able to determine, based on local circumstances, whether licenses were needed.¹² The finance director of the County of Hawaii testified that most of the licensing requirements originated in the nineteenth century. He also

noted that the counties were issuing licenses but not really regulating the activities and that some of the licenses were examples of government overregulation.¹³

Recent shift to State

In Act 164 of 1990, however, the Legislature in amending some provisions in Chapter 445 also removed the counties' authority to require or eliminate the requirement for licensing. The primary intent of the amendments was to get rid of outdated and unnecessary county licensing, including the licensing of such businesses as selling beef or pork, operating laundries, and producing milk. The legislative committees reported that county regulation was sometimes outdated, unnecessary, or duplicative and also largely ineffective because enforcement was lacking.¹⁴

But in making these changes, the Legislature also deleted the portion of the law that authorized the counties to require, and to eliminate the requirement for, annual licenses. The committee reports are silent on whether the Legislature intended to remove this authority, and the change may have been inadvertent.¹⁵

Specific Provisions on Auctions, Pawnbrokers, Secondhand Dealers, and Scrap Dealers

The specific provisions on these businesses in Chapter 445 are designed to (1) protect consumers and (2) curb trafficking in stolen goods. The concern was that without regulation, pawnshops and secondhand dealers would become dumping grounds for stolen property. The statutes are designed to make it harder to dispose of stolen items and easier to track and apprehend offenders.

Table 1.1 shows the number of licenses issued by the counties for each of the four businesses. Except for the large number of secondhand dealers in Honolulu, there are relatively few licensees. Vendors at swap meets account for many of the licensed secondhand dealers.

TABLE 1.1
Licensees by Type and County

	Auctioneers	Pawnbrokers	Secondhand Dealers	Scrap Dealers
Honolulu	11	19	298	11
Kauai	0*	0	1	0
Maui	4	1	18	0
Hawaii	6	2	19	4
Total	21	22	336	15

Source: County Finance Directors

*Kauai does not license auctioneers.

Auctions

Sections 445-21 through 445-38, HRS, cover persons selling goods, wares, merchandise, or other property at auctions. The law defines auctions as sales where the seller invites competition and disposes of the property to the highest bidder.¹⁶ Auctioneers specialize in many kinds of property—antiques, livestock, real estate, and industrial equipment. They must have a bond of \$3,000 if in the Honolulu taxation district and \$500 in other taxation districts.

The law also governs such matters as commissions, warranties, fictitious bids, and the time and place of auctions. Auctioneers must keep for public inspection a record listing property received for sale, persons from whom the property was received, dates of receipt and sale, prices paid, and the number of buyers. Exceptions from certain provisions are made for public officers, court ordered sales, charitable organizations, merchandise close-outs, and other situations.

There are 11 licensed auctioneers in Honolulu, 4 in Maui, and 6 in Hawaii. Only Honolulu has ordinances on auctions,¹⁷ and only Kauai has an ordinance that expressly eliminates the licensing of auctions.¹⁸

Pawnbrokers

Pawnbrokers make loans to people who pledge their goods as security. Loans are usually small; items commonly pawned include jewelry, electronic equipment, musical instruments, and firearms.

Sections 445-131 through 445-136, HRS, set maximum interest rates for pawnbrokers varying with the size or duration of the loan. Adding fees for commissions and storage is prohibited. The law also requires a detailed written contract between the pawnbroker and the pledger, a waiting period before selling an unredeemed item, and records of all loan transactions. The county police or finance director may examine the records. Pawnbrokers must report these transactions weekly to the county police and notify the police if they suspect someone is trying to pawn stolen property. Chapter 486M imposes additional recordkeeping requirements for precious and semiprecious metals and gems.

None of the counties report having ordinances on pawnbrokers. Honolulu has 19 licensed pawnbrokers, Maui has one, Hawaii two, and Kauai none.

Secondhand dealers

Two provisions, Sections 445-171 and 445-172 govern “dealers or traders in secondhand articles.” These categories include a variety of enterprises, ranging from thrift shops and secondhand stores to vendors at swap meets.

Secondhand dealers are required to keep records of every article received—the name, residence, and general description of the person from whom the article was received, and also the time and hour the article was received. The county treasurer or police may examine the dealer’s book, business premises, and the articles of property. Like pawnbrokers, secondhand dealers must satisfy the recordkeeping requirements of Chapter 486M on precious and semiprecious metals and gems.

None of the counties report having ordinances on secondhand dealers. There are 298 licensed secondhand dealers in Honolulu county, 18 in Maui, 19 in Hawaii, and one in Kauai.

Scrap dealers

Scrap dealers fall under Sections 445-231 through 445-235 and include “any person engaged in the business of buying, selling, or dealing in scrap, or any person operating, carrying on, conducting or maintaining a scrap yard.” The law defines *scrap* as any secondhand or used metal except used motor vehicle parts covered under Chapter 289, HRS.

The law requires that scrap dealers must get from the seller (or seller’s agent) a written statement certifying the person’s legal right to sell the scrap. The statement must also include any serial numbers and other identifying marks and the license number of the vehicle used to deliver the property to the place of purchase. The written statement must be kept by the dealer for two years and may be inspected by the county treasurer or chief of police.

Only Kauai reports having ordinances on scrap dealers.¹⁹ There are no licensed scrap dealers in Kauai or in Maui, but Honolulu has eleven and Hawaii has four.

Sunset Evaluation

In Act 29, 1988, the Legislature placed auctions, pawnbrokers, secondhand dealers, and scrap dealers on the sunset schedule with a repeal date of December 31, 1993. Legislative committee reports on the measure noted that the Sunset Law had led to significant improvements in regulatory programs and the purpose of the measure was to expand the coverage of the Sunset Law to give the auditor authority to evaluate these programs. Act 166, 1990, changed the repeal date to December 31, 1992.

Objectives of the Evaluation

1. Determine whether there is a reasonable need to regulate the occupation to protect the health, safety, and welfare of the public.
2. Determine whether current regulatory requirements are appropriate for protecting the public.
3. Establish whether the regulatory program is being implemented effectively and efficiently.
4. Make recommendations based on findings in these areas.

Scope and Methodology

We reviewed the literature on these business activities and their regulation and also reviewed pertinent Hawaii statutes and their history. We interviewed personnel from the county finance and police departments, the Department of Commerce and Consumer Affairs, the Better Business Bureau of Hawaii, and members of relevant business associations. We reviewed complaints files at the Office of Consumer Protection.

Our information on county ordinances, licensees, and regulatory activity is based on interviews and correspondence with appropriate officials and unaudited data that they provided.

Chapter 2

Findings and Recommendations

Summary of Findings

1. The regulation of these businesses is marked by minimal enforcement activity and only a few ordinances. The main benefits of regulation are recordkeeping requirements that help police deter traffic in stolen goods, pursue offenders, and trace and return stolen property.
2. Placing these regulatory programs in the Sunset Law creates problems for the Department of Commerce and Consumer Affairs.

Value of Regulation Is Uncertain

The counties traditionally have had the burden of carrying out the licensing programs for auctions, pawnbrokers, secondhand dealers, and scrap dealers. They report that enforcement activities are minimal and ordinances are few. The laws appear to serve a police function in helping fight theft.

To a large extent, the lack of county activity simply reflects the small number of licensees. As shown earlier in Table 1.1, Kauai has only one licensee (a secondhand dealer). Maui and Hawaii have 23 and 31 licensees respectively (mostly secondhand dealers).

Minimal enforcement

The main regulatory activity is processing license applications and fees. Officials report few or no complaints, and licensing fees do not cover the cost of administering the business licenses. Regulation of these businesses is therefore not a high priority.

The finance directors of the neighbor island counties report that they do not have investigators to search out unlicensed activity and carry out other typical enforcement functions of larger programs. Honolulu has one investigator in the finance department to enforce regulations over all business licenses issued by the county. Hotels, group homes, restaurants, and food processors receive first priority.

The county police departments monitor some activities but report few, if any, complaints. The Honolulu police visit auctions and pawnshops to deter fictitious bids and control trafficking in stolen goods. The Maui police inspect books to look for stolen goods. In Hawaii, the police work cooperatively with the four businesses to help control trafficking.

Ordinances are few

There have been only a few licensing ordinances adopted for these businesses. As noted earlier, Honolulu has adopted ordinances governing auctioneers only. None of the counties have ordinances on pawnbrokers and secondhand dealers. Kauai has ordinances on scrap dealers but Kauai, by ordinance, has eliminated the licensing of auctions.

Regulation may help police

County officials maintain that the main benefits of regulation are the recordkeeping requirements which help the county police deter traffic in stolen goods, pursue offenders, and trace and return stolen property. One police official pointed out that without these laws, inspection of pawnshops would require a search warrant. According to some officials, all four businesses are associated with traffic in stolen goods; others claim pawnbrokers and secondhand dealers are the main trouble spots.

Counties Should Control Whether to License

The power to decide whether or not to regulate these businesses should reside with the counties. This authority was originally granted to them in 1986.

After authority to the counties was deleted in 1990, the counties have had no choice but to continue to license auctioneers, pawnbrokers, secondhand dealers, scrap dealers, and other businesses listed in Chapter 445, in spite of the fact that regulatory activity is minimal.

Should the counties decide to continue regulation for one or more of these business activities, the general provisions of Chapter 445 will continue to allow them to adopt ordinances tailored to local circumstances. For issues of statewide concern, the counties could propose amendments to the Legislature to update Chapter 445. The counties have expressed concerns about provisions relating to (1) fee levels,¹ (2) prohibition of auctions during certain hours and months,² (3) maximum interest rates for pawnbrokers,³ (4) item-by-item recordkeeping for secondhand dealers,⁴ and (5) penalties.⁵

Inclusion of County Licensing in Sunset Law Presents a Problem

Including these four businesses on the sunset schedule creates a situation whereby a small and unique group of county licensees are required to pay the compliance resolution fee to the State. Section 26-9(n), HRS, requires every licensee on the sunset schedule to be assessed a fee to support the investigative and adjudicatory functions of the Department of Commerce and Consumer Affairs. Singling out these four businesses from others regulated by the counties was probably not intended and should be corrected by removing them from the Sunset Law.

Recommendations

1. The Legislature should return control over these four business licenses to the counties. It should amend Chapter 445, HRS, by adding to Section 445-15 a subsection giving the counties the power to require or eliminate the requirement for licensing of these businesses. Other pertinent sections of Chapter 445 should be amended accordingly, such as Section 445-2, which requires that licenses be issued for all Chapter 445 businesses, and Section 445-12, which forbids carrying on the business without a license.
2. The Legislature should remove from the sunset schedule Sections 445-21 to 38, HRS (auctions), Sections 445-131 to 136 (pawnbrokers), Sections 445-171 to 172 (secondhand dealers), and Sections 445-231 to 235 (scrap dealers).

Notes

Chapter 1

1. Article IV of An Act to Organize the Executive Departments, *Statute Laws of His Majesty King Kamehameha III*, Honolulu, Charles E. Hitchcock, Printer, Government Press, 1846, pp. 37-40.
2. Act 35, SLH 1905 (pawnbrokers) and Act 31, SLH 1905 (secondhand dealers).
3. Act 114, SLH 1913.
4. Senate Judiciary Committee Report No. 280 on House Bill No. 266, Regular Session of 1913.
5. Act 235, SLH 1955.
6. Senate Standing Committee Report No. 441 on Senate Bill No. 32, Regular Session of 1955.
7. Act 128, SLH 1957.
8. Section 3, Act 248, SLH 1967.
9. Senate Standing Committee Report No. 648 on Senate Bill No. 842, General Session of 1967.
10. Section 23-4.2(2), Kauai County Code 1987; Ordinance 89-41, County of Hawaii.
11. House Standing Committee Report No. 874-86 and Senate Standing Committee Report No. 359-86 on Senate Bill No. 1561-86, Regular Session of 1986.
12. Testimony on Senate Bill No. 1561-86 submitted by Rizelino R. Vicente, Director of Finance, City and County of Honolulu, to the Honorable Ken Kiyabu, Chairman, House Finance Committee, March 19, 1986.
13. Testimony on Senate Bill No. 1561-86 by Joseph W. Andrews, Director of Finance, County of Hawaii, to the Honorable Duke T. Kawasaki, Chairman, Senate Committee on Government Operations (undated) and to the Honorable Ken Kiyabu, Chairman, House Finance Committee (undated).

14. Senate Standing Committee Report No. 442 on Senate Bill No. 26, Regular Session of 1989; House Standing Committee Report No. 1209-90 and Conference Committee Report No. 130 on Senate Bill No. 26, Regular Session of 1990.
15. Ibid.
16. *Territory v. Toyota*, 19 Haw. 651, 653 (1909).
17. Sections 13-1.1 through 13-1.9, Revised Ordinances of Honolulu.
18. Section 23-4.2(2), Kauai County Code 1987.
19. Sections 23-2.1 through 23-2.6, Kauai County Code 1987.

Chapter 2

1. Sections 445-21 (auctions), 445-132 (pawnbrokers), 445-171 (secondhand dealers), and 445-232 (scrap dealers), HRS.
2. Section 445-23, HRS.
3. Section 445-133, HRS.
4. Section 445-171, HRS.
5. Penalties applicable to all the businesses are at Sections 445-9, 445-11, and 445-12, HRS. Specific penalties are at 445-27 (auctions), 445-134 (auctions and pawnbrokers), 445-135 to 445-136 (pawnbrokers), 445-172 (secondhand dealers), and 445-235 (scrap dealers), HRS.

Responses of the Affected Agencies

Comments on Agency Responses

We transmitted a draft of this Sunset Evaluation Report to the City and County of Honolulu and the counties of Hawaii, Maui, and Kauai on October 25, 1991. A copy of the transmittal letter to the City and County of Honolulu is included as Attachment 1 of this Appendix. Similar letters were sent to the other counties. The City and County of Honolulu and the County of Kauai submitted written responses which are included as Attachments 2 and 3 respectively. The counties of Maui and Hawaii did not respond.

The City and County of Honolulu and the County of Kauai agree with our recommendation that the Legislature amend Chapter 445, Hawaii Revised Statutes, to give the counties the power to require or eliminate the requirement for licensing of auctions, pawnbrokers, secondhand dealers, and scrap dealers. In addition, Honolulu agrees with us that the four businesses should be removed from the sunset schedule. In the event that the counties are not given control of licensing, Honolulu recommends that the statutory licensing fee for secondhand dealers be raised from \$10 to \$100 to cover administrative costs.

ATTACHMENT 1

STATE OF HAWAII
OFFICE OF THE AUDITOR
465 S. King Street, Room 500
Honolulu, Hawaii 96813



(808) 548-2450
FAX: (808) 548-2693

October 25, 1991

C O P Y

The Honorable Frank F. Fasi
Mayor of the City and County of Honolulu
City Hall
Honolulu, Hawaii 96813

Dear Mayor Fasi:

Enclosed are three copies, numbered 6 through 8, of our draft report, *Sunset Evaluation Report: Auctions, Pawnbrokers, Secondhand Dealers, and Scrap Dealers*. We ask that you telephone us by Wednesday, October 30, 1991, on whether you intend to comment on our recommendations. If you wish your comments to be included in the report, please submit them no later than Monday, November 25, 1991.

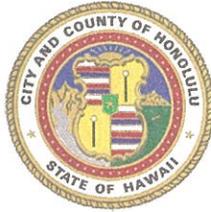
The Mayors of the Counties of Hawaii, Maui, and Kauai; the Governor; and presiding officers of the two houses of the Legislature have also been provided copies of this draft report.

Since this report is not in final form and changes may be made to it, access to the report should be restricted to those assisting you in preparing your response. Public release of the report will be made solely by our office and only after the report is published in its final form.

Sincerely,


Newton Sue
Acting Auditor

Enclosures

DEPARTMENT OF THE CORPORATION COUNSEL
CITY AND COUNTY OF HONOLULUHONOLULU, HAWAII 96813
FAX NUMBER: (808) 523-4583FRANK F. FASI
MAYORRONALD B. MUN
CORPORATION COUNSEL

November 26, 1991

HAND DELIVERED

Mr. Newton Sue
Acting Auditor
Office of the Auditor
State of Hawaii
465 South King Street, Room 500
Honolulu, Hawaii 96813

RECEIVED
Nov 26 9 00 AM '91
OFC. OF THE AUDITOR
STATE OF HAWAII

Dear Mr. Sue:

Re: Sunset Evaluation Report: Auctions,
Pawnbrokers, Secondhand Dealers, and
Scrap Dealers

This is in response to your letter of October 25, 1991 inviting our comment to the draft report of the Auditor regarding the licensing of auctions, pawnbrokers, secondhand dealers, and scrap dealers.

The City and County of Honolulu supports the two recommendations set forth on page 9 of the draft report. The recommendations are as follows:

1. The Legislature should return control over these four business licenses to the counties. It should amend Chapter 445, HRS, by adding a subsection giving the counties the power to require or eliminate the requirement for licensing of these businesses. Other pertinent sections of Chapter 445 should be amended accordingly, such as Section 445-2, which requires that licenses be

Mr. Newton Sue
November 26, 1991
Page 2

issued for all Chapter 445 businesses,
and Section 445-12, which forbids
carrying on the business without a
license.

2. The Legislature should remove from the sunset schedule Sections 445-21 to 38, HRS (auctions), Sections 445-131 to 136 (pawnbrokers), Sections 445-171 to 172 (secondhand dealers), and Sections 445-231 to 235 (scrap dealers).

We strongly support the recommendation which would continue the licensing of these four activities. We support the continued licensing of these activities for the reasons stated in the draft report on page 3 for the enactment of the licensing requirement, which states as follows:

The specific provisions on these businesses in Chapter 445 are designed to (1) protect consumers and (2) curb trafficking in stolen goods. The concern was that without regulation, pawnshops and secondhand dealers would become dumping grounds for stolen property. The statutes are designed to make it harder to dispose of stolen items and easier to track and apprehend offenders.

Also, we support an increase in the licensing fee for secondhand dealers from \$10.00 to \$100.00, consistent with the current fee assessed for pawnbrokers. Our desire to increase the fee is based upon the administrative costs we incur in enforcing the licensing activity. The draft report on page 7 recognizes that the licensing fees do not cover the cost of administering the business license. We recognize that if the draft report's recommendation to have the counties assume control of the licensing of the four activities is effected by appropriate amendment to Chapter 445, the counties would also have the authority to regulate the licensing fees. In the event the recommendation is not accepted by the Legislature, however, we wish to voice our support for an increase in the licensing fee for secondhand dealers.

Mr. Newton Sue
November 26, 1991
Page 3

Lastly, we reviewed the figures set forth in Table 1.1 on page 3 which provides the number of licenses for the various counties. Please note that based upon our annual report for fiscal year 1990-91, the number of issued licenses for our county is larger than the numbers set forth in the Table, with the exception of the auctioneers. For our county, the number of issued licenses are as follows: pawnbrokers 27; secondhand dealers 312; and scrap dealers 12.

Thank you for the opportunity to comment on the draft report.

Very truly yours,

Diane T. Kawachi.

DIANE T. KAWAUCHI
Deputy Corporation Counsel

DTK:gg

cc: Mayor Frank F. Fasi
Michael S. Nakamura, Chief of Police
Russell W. Miyake, Director of Finance

SH91094X.RFT

ATTACHMENT 3

JoAnn A. Yukimura
Mayor

Gwen S. Hamabata
Administrative Assistant



4396 Rice Street, Suite 101
Lihue, Hawaii 96766

(808) 245-3385
FAX: (808) 246-4620

OFFICE OF THE MAYOR

November 27, 1991

Newton Sue, Acting Auditor
State of Hawaii
Office of the Auditor
465 S. King Street, Room 500
Honolulu, HI 96813

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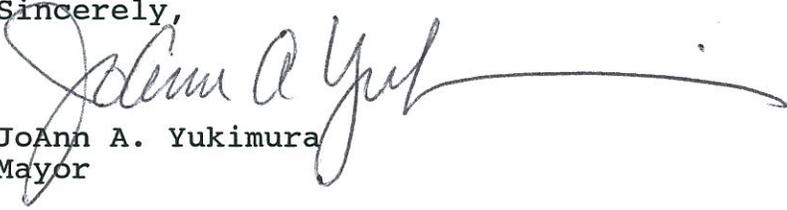
OFFICE OF THE AUDITOR
STATE OF HAWAII

**Re: Sunset Evaluation Report: Auctions, Pawnbrokers,
Secondhand dealers, and Scrap Dealers**

Dear Acting Auditor Sue:

This is in response to your letter of October 25, 1991 regarding your draft report "Auctions, Pawnbrokers, Secondhand Dealers, and Scrap Dealers". With respect to the findings and recommendations contained in chapter two of your report, the County of Kauai concurs with your recommendation that the counties be given the authority to regulate and the discretion as to whether to require licensing of auctioneers, pawnbrokers, secondhand dealers, scrap dealers and other businesses listed in Chapter 445, Hawaii Revised Statutes, as amended.

Sincerely,


JoAnn A. Yukimura
Mayor

A BILL FOR AN ACT

RELATING TO COUNTY LICENSES.

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

1 SECTION 1. Section 26H-4, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The following chapters and sections are hereby
4 repealed effective December 31, 1992:

5 (1) Chapter 446 (Debt Adjusters)

6 (2) Chapter 467D (Social Workers)

7 (3) Sections 321-13 to 321-15 only as they relate to
8 sanitarians

9 [(4) Sections 445-21 to 38 (Auctions)

10 (5) Section 445-131 to 136 (Pawnbrokers)

11 (6) Sections 445-171 to 172 (Secondhand Dealers)

12 (7) Sections 445-231 to 235 (Scrap Dealers)]"

13 SECTION 2. Chapter 445, Hawaii Revised Statutes, is amended
14 as follows:

15 1. By amending section 445-2 to read:

16 "§445-2 Treasurer to issue. The treasurer [shall], upon
17 the application of any person, shall issue to the applicant any
18 license in this chapter [enumerated,] required by the county,
19 upon the terms and conditions in this chapter set forth."

2. By amending section 445-12 to read:

"§445-12 Business without license forbidden; not transferable; penalty. (a) [The carrying on] Where a county requires a license for the conduct of any business, or the [doing] performance of any act in this chapter enumerated, that business or act, except upon obtaining a license [in conformity with the provisions thereof,] from the appropriate county, is forbidden.

(b) No license required and issued by a county under this chapter shall be transferable.

(c) Any person who [engages]:

(1) Engages in or carries on any business, or does any act enumerated in this chapter, the engaging in or doing of which is [therein] required to be licensed[,] in the county in which the business is conducted or act is performed, without first obtaining a license [issued in conformity with the provisions thereof; or who sells] from that county;

(2) Sells any goods, wares, merchandise, produce, or thing of value, contrary to the terms of this chapter; or [who violates]

(3) Violates or fails to observe this chapter;

1 shall be fined a maximum of \$500 per day, unless otherwise
2 provided in this chapter."

3 3. By amending section 445-15 to read:

4 "**§445-15 Control by ordinance.** Each council has the power
5 by ordinance:

6 (1) To require, or eliminate the requirement for, the
7 licensing of any business or act enumerated in this
8 chapter and to impose annual license fees;

9 (2) To increase, decrease, or waive effective upon the
10 expiration of any existing license, the annual fee for
11 a license issued under this chapter, or to exempt
12 wholly or partially, the payment by any religious,
13 charitable, or educational organization or institution
14 of any license fee imposed in this chapter or any
15 ordinance enacted hereunder with respect to any
16 business which is not regularly engaged in or carried
17 on by such organization or institution; and

18 [(2)] (3) To adopt rules not inconsistent with law
19 concerning the conduct of the business of all persons
20 licensed under this chapter, as deemed necessary for
21 the public health, safety, or welfare."

22 SECTION 3. Statutory material to be repealed is bracketed.



1 New statutory material is underscored.

2 SECTION 4. This Act shall take effect upon its approval.

3

4 INTRODUCED BY: _____

