

OVERVIEW

THE AUDITOR
STATE OF HAWAII

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

Summary

We evaluated the regulation of auctions, pawnbrokers, secondhand dealers, and scrap dealers under Chapter 445, Hawaii Revised Statutes, which requires counties to license these businesses. We conclude that the public interest is best served by giving counties the authority to decide whether to regulate.

Under Chapter 445, the county treasurer or finance director issues licenses and collects fees for these businesses in that county. The county police and representatives of the finance directors are designated as license inspectors. For each of the four types of businesses, the law has specific requirements that are designed to protect consumers or curb trafficking in stolen goods—for example, bonding of auctioneers, maximum interest rates for pawnbrokers, itemized recordkeeping by secondhand dealers, and documentation of serial numbers by scrap dealers. Chapter 445 authorizes the county councils to adopt related ordinances consistent with state law.

We found that the counties, who bear the burden of enforcement, should have a choice in deciding whether to license these four businesses. Counties have few ordinances governing them, enforcement activities are minimal, and license fees reportedly do not cover administrative costs. Officials note few complaints about the businesses but say that the laws help the county police fight theft.

Recommendations and Response

We recommend that the Legislature modify Chapter 445 to give the counties the power to require or eliminate the requirement for licensing of auctions, pawnbrokers, secondhand dealers, and scrap dealers.

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

The City and County of Honolulu and the County of Kauai agree with our recommendation that the counties be given the power to decide whether to license. Honolulu also agrees 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.

The counties of Maui and Hawaii did not submit responses to the draft of this report.

Background

Since 1846, when auctioneers were first regulated by the Kingdom, the laws generally have given the counties increasing authority to regulate these licensing programs. This trend peaked in 1986 when the Legislature gave the county councils the power to require *or eliminate the requirement for* annual licenses for any Chapter 445 business. But in the course of making other amendments to the law in 1990, the Legislature removed this power, perhaps inadvertently. Our recommendation would restore county control over these businesses.

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