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NEIL ABERCROMBIE  
GOVERNOR

February 23, 2011

The Honorable Shan Tsutsui, President  
and Members of the Senate  
Twenty-Sixth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

The Honorable Calvin Say, Speaker  
and Members of the House  
Twenty-Sixth State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

*to President*  
*to Speaker*  
*Members*  
Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on February 23, 2011, the following bill was signed into law:

SB232 SD1 HD1

RELATING TO CIVIL UNIONS.  
ACT 001 (11)

*Alaka*  
*Neil Abercrombie*

NEIL ABERCROMBIE  
Governor, State of Hawaii

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# A BILL FOR AN ACT

RELATING TO CIVIL UNIONS.

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

1 SECTION 1. The intent of this measure is to recognize  
2 civil unions in Hawaii. By establishing the status of civil  
3 unions in this State, it is not the legislature's intent to  
4 revise the definition or eligibility requirements of marriage  
5 under chapter 572, Hawaii Revised Statutes.

6 SECTION 2. The Hawaii Revised Statutes is amended by  
7 adding a new chapter to be appropriately designated and to read  
8 as follows:

9 "CHAPTER

10 CIVIL UNIONS

11 § -1 Definitions. As used in this chapter, unless the  
12 context otherwise requires:

13 "Agent" means the person or persons appointed as an agent  
14 or agents by the department of health pursuant to section 572-5.

15 "Civil union" means a union between two individuals  
16 established pursuant to this chapter.

17 "Partner" means an individual who is a party to a civil  
18 union established pursuant to this chapter.



1           **§ -2 Eligibility to enter into a civil union.** A person  
2 shall be eligible to enter into a civil union only if the person  
3 is:

- 4           (1) Not a partner in another civil union, a spouse in a  
5           marriage, or a party to a reciprocal beneficiary  
6           relationship pursuant to chapter 572C;
- 7           (2) At least eighteen years of age; and
- 8           (3) Not related to the other proposed partner in the civil  
9           union, as provided in section -3.

10          **§ -3 Civil unions void; when.** A civil union shall be  
11 void between the following persons: parent and child,  
12 grandparent and grandchild, two siblings, aunt and nephew, aunt  
13 and niece, uncle and nephew, uncle and niece, and persons who  
14 stand in relation to each other as ancestor and descendant of  
15 any degree whatsoever.

16          **§ -4 Solemnization; license to perform; refusal to join**  
17 **persons in a civil union.** (a) A civil union shall become valid  
18 only upon completion of a solemnization by a person licensed in  
19 accordance with this section.

20           (b) Any judge or retired judge, including a federal judge  
21 or judge of another state who may legally join persons in  
22 chapter 572 or a civil union, may solemnize a civil union. Any



1 ordained or licensed member of the clergy may solemnize a civil  
2 union. Solemnization may be entirely secular or may be  
3 performed according to the forms and usages of any religious  
4 denomination in this State. Nothing in this section shall be  
5 construed to require any person authorized to perform  
6 solemnizations of marriages or civil unions to perform a  
7 solemnization of a civil union, and no such authorized person  
8 who fails or refuses for any reason to join persons in a civil  
9 union shall be subject to any fine or other penalty for the  
10 failure or refusal.

11 (c) Nothing in this section shall be construed to require  
12 any person authorized to perform solemnizations pursuant to  
13 chapter 572 or civil unions pursuant to this chapter to perform  
14 a solemnization of a civil union, and no such authorized person  
15 who fails or refuses for any reason to join persons in a civil  
16 union shall be subject to any fine or other penalty for the  
17 failure or refusal.

18 (d) No agent may solemnize a civil union; nor may any  
19 assistant or deputy of the agent solemnize a civil union.

20 (e) No person shall perform the solemnization of a civil  
21 union without first having obtained a license from the  
22 department of health. The department of health shall issue



1 licenses to solemnize civil unions in the same manner as it  
2 issues licenses pursuant to chapter 572. The department of  
3 health may revoke or suspend a license to solemnize civil  
4 unions. Any penalties or fines that may be levied or assessed  
5 by the department of health for violation of chapter 572 shall  
6 apply equally to a person licensed to solemnize civil unions.

7 **§ -5 Applicants for civil union; license required;**  
8 **limitations.** (a) No persons may be joined in a civil union in  
9 this State unless both partners have:

- 10 (1) Met the requirements of section -2;  
11 (2) Complied with section -6 and, if applicable,  
12 section -7; and  
13 (3) Been issued a license by an agent in the judicial  
14 circuit in which a civil union is to be solemnized or  
15 in which either person resides, which license shall  
16 bear the certification of the agent that the persons  
17 named therein have met the requirements of section  
18 -2 and have complied with section -6 and, if  
19 applicable, section -7.

20 (b) The license, when certified by the agent, is  
21 sufficient authority for any person authorized to perform a  
22 civil union solemnization in this State to join the persons in a



1 civil union; provided that the solemnization is performed not  
2 more than thirty days after the date of issuance. The license  
3 shall become void thirty days after issuance.

4       **§ -6 Application for license for persons who wish to**  
5 **enter into a civil union; fee.** (a) No license for a civil  
6 union may be issued by an agent until both applicants have  
7 appeared before the agent and applied for the license. The  
8 application for the license shall be completed in its entirety,  
9 dated, signed, and sworn to by each applicant and shall state  
10 each applicant's full name, date of birth, birthplace,  
11 residence, social security number, whether single, widowed, or  
12 divorced, and whether the applicant is under the supervision or  
13 control of a conservator or guardian. If the application is  
14 signed and sworn to by the applicants on different dates, the  
15 earlier date shall be deemed the date of the application. The  
16 agent shall issue a copy of this chapter to any person applying  
17 for a license.

18       (b) The fee for a license to enter into a civil union  
19 shall be an amount equal to the amount prescribed in section  
20 572-5, and all amounts collected by the agent as application  
21 fees under this chapter shall be retained or remitted and  
22 apportioned in the same manner as prescribed in section 572-5.



1           **§ -7 Persons under control of conservator or guardian.**

2       (a) No civil union license may be issued to any applicant under  
3       the supervision or control of a conservator or guardian,  
4       appointed in accordance with chapter 560, unless the written  
5       consent of the conservator or guardian is signed, notarized, and  
6       filed with the agent.

7       (b) Any person who enters into a civil union without the  
8       consent provided for in subsection (a) shall acquire no rights  
9       by that civil union in the property of any person who was under  
10      the control or supervision of a conservator or guardian at the  
11      time the civil union was entered into.

12           **§ -8 Record of solemnization; reported by whom;**  
13      **affidavit; evidentiary weight of certificate or affidavit. (a)**

14      Each person who solemnizes a civil union shall certify upon the  
15      civil union license certificate the fact, time, and place of the  
16      solemnization of the civil union and return the certificate to  
17      the agent within three business days following the solemnization  
18      of the civil union, or as may otherwise be prescribed by the  
19      department of health.

20      (b) If any person who has solemnized a civil union fails  
21      to return the certificate to the agent as required under  
22      subsection (a), the partners joined in a civil union may provide



1 the agent with a notarized affidavit attesting to the fact that  
2 they were joined in a civil union and stating the date and place  
3 of the solemnization of the civil union. Upon the receipt of  
4 that affidavit by the agent, the civil union of the partners  
5 shall be deemed to be valid as of the date of the solemnization  
6 of the civil union stated in the affidavit.

7 (c) The certificate required by subsection (a) or an  
8 affidavit received pursuant to subsection (b) shall be prima  
9 facie evidence of the facts stated therein.

10 **§ -9 Benefits, protections, and responsibilities.**

11 Partners to a civil union lawfully entered into pursuant to this  
12 chapter shall have all the same rights, benefits, protections,  
13 and responsibilities under law, whether derived from statutes,  
14 administrative rules, court decisions, the common law, or any  
15 other source of civil law, as are granted to those who contract,  
16 obtain a license, and are solemnized pursuant to chapter 572.

17 **§ -10 Civil unions performed in other jurisdictions.**

18 All unions entered into in other jurisdictions between two  
19 individuals not recognized under section 572-3 shall be  
20 recognized as civil unions; provided that the relationship meets  
21 the eligibility requirements of this chapter, has been entered





1 into in accordance with the laws of that jurisdiction, and can  
2 be documented.

3       **§ -11 References and inclusions.** A party to a civil  
4 union shall be included in any definition or use of the terms  
5 "spouse", "family", "immediate family", "dependent", "next of  
6 kin", and other terms that denote the spousal relationship, as  
7 those terms are used throughout the laws of the State."

8       SECTION 3. Chapter 231, Hawaii Revised Statutes, is  
9 amended by adding a new section to be appropriately designated  
10 and to read as follows:

11       "§231-       Effect of civil union. All provisions of the  
12 Internal Revenue Code referred to in this chapter that apply to  
13 a husband and wife, spouses, or person in a legal marital  
14 relationship shall be deemed to apply in this chapter to  
15 partners in a civil union with the same force and effect as if  
16 they were "husband and wife", "spouses", or other terms that  
17 describe persons in a legal marital relationship."

18       SECTION 4. Chapter 235, Hawaii Revised Statutes, is  
19 amended by adding a new section to be appropriately designated  
20 and to read as follows:

21       "§235-       Effect of civil union. All provisions of the  
22 Internal Revenue Code referred to in this chapter that apply to



1 a husband and wife, spouses, or person in a legal marital  
2 relationship shall be deemed to apply in this chapter to  
3 partners in a civil union with the same force and effect as if  
4 they were "husband and wife", "spouses", or other terms that  
5 describe persons in a legal marital relationship."

6 SECTION 5. Chapter 236D, Hawaii Revised Statutes, is  
7 amended by adding a new section to be appropriately designated  
8 and to read as follows:

9 "**§236D- Effect of civil union.** All provisions of the  
10 Internal Revenue Code referred to in this chapter that apply to  
11 a husband and wife, spouses, or person in a legal marital  
12 relationship shall be deemed to apply in this chapter to  
13 partners in a civil union with the same force and effect as if  
14 they were "husband and wife", "spouses", or other terms that  
15 describe persons in a legal marital relationship."

16 SECTION 6. Section 580-1, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "**§580-1 Jurisdiction; hearing.** Exclusive original  
19 jurisdiction in matters of annulment, divorce, and separation,  
20 subject to section 603-37 as to change of venue, and subject  
21 also to appeal according to law, is conferred upon the family  
22 court of the circuit in which the applicant has been domiciled



1 or has been physically present for a continuous period of at  
2 least three months next preceding the application therefor. No  
3 absolute divorce from the bond of matrimony shall be granted for  
4 any cause unless either party to the marriage has been domiciled  
5 or has been physically present in the State for a continuous  
6 period of at least six months next preceding the application  
7 therefor. A person who may be residing on any military or  
8 federal base, installation, or reservation within the State or  
9 who may be present in the State under military orders shall not  
10 thereby be prohibited from meeting the requirements of this  
11 section. The family court of each circuit shall have  
12 jurisdiction over all proceedings relating to the annulment,  
13 divorce, and separation of civil unions entered into in this  
14 State in the same manner as marriages."

15 SECTION 7. Section 572-1.6, Hawaii Revised Statutes, is  
16 repealed.

17 [~~"§572-1.6] Private solemnization not unlawful. Nothing~~  
18 ~~in this chapter shall be construed to render unlawful, or~~  
19 ~~otherwise affirmatively punishable at law, the solemnization of~~  
20 ~~same sex relationships by religious organizations, provided that~~  
21 ~~nothing in this section shall be construed to confer any of the~~



1 ~~benefits, burdens, or obligations of marriage under the laws of~~  
2 ~~Hawaii." ]~~

3 SECTION 8. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun, before its effective date.

6 SECTION 9. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 10. This Act shall take effect on January 1, 2012,  
9 provided sections 3, 4, and 5 of this Act shall apply to taxable  
10 years beginning after December 31, 2011.

APPROVED this 23 day of FEB, 2011



GOVERNOR OF THE STATE OF HAWAII