



THE HAWAII LEMON LAW AND THE STATE CERTIFIED ARBITRATION PROGRAM

A Consumer Handbook

Published by the
Department of Commerce and Consumer Affairs
State Certified Arbitration Program
235 S. Beretania Street, Ninth Floor
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cca.hawaii.gov/rico/lemon-law/

TABLE OF CONTENTS

Introduction	1
Is My Motor Vehicle Covered Under the Lemon Law?	2
Is My Motor Vehicle a Lemon?.....	3
When Does the Lemon Law Rights Period Expire?.....	4
Is My Motor Vehicle's Nonconformity a Substantial Impairment?	4
How Many Repair Attempts Do I Have to Allow?.....	5
Hawaii's Lemon Law Timeline.....	6
What Should I Do If I Think I Qualify for Arbitration?.....	7 – 8
Can I Settle My Case Without Going to Arbitration?	9
How Should I Prepare for the Arbitration?	10 – 11
The Lemon Law Arbitration Hearing	12
What Happens After the Arbitration Hearing?	13
Sample Refund Calculation for Purchased (Motor Vehicle Not Paid Off) or Leased Motor Vehicle	14
Sample Refund Calculation for Purchased Motor Vehicle (Motor Vehicle Paid Off).....	15

Forms

- ❖ Letter to the Manufacturer
- ❖ Demand for Arbitration
- ❖ Binding vs. Non-Binding Arbitration/Election of Consumer
- ❖ Notice of Consumer Rights (Sample)/Certification of No Notice of Consumer Rights
- ❖ Notification of Witness(es) to Appear at Arbitration Hearing
- ❖ Demand for Arbitration Checklist

INTRODUCTION

Hawaii's State Certified Arbitration Program (SCAP), commonly referred to as the Lemon Law, helps consumers who buy or lease new motor vehicles and have repeated problems getting their new vehicles repaired under the manufacturer's warranty. The Lemon Law can help a consumer get a refund of the motor vehicle purchase price or a replacement motor vehicle from the manufacturer. SCAP provides the consumer with a self-help arbitration process to resolve a warranty dispute with a manufacturer. This Program gives the consumer a less complicated and less expensive option than going to court.

The information in this handbook is a summary of the Lemon Law and the procedures involved in requesting and preparing for arbitration. The law can be found in Hawaii Revised Statutes ("HRS") Chapter 481I. The administrative rules which govern the SCAP process are found in Hawaii Administrative Rules ("HAR") Title 16 Chapter 181.

To obtain more information:

go to:

cca.hawaii.gov/rico/lemon-law/

call:

(808) 587-4272 and choose option #4

email:

SCAP@dcca.hawaii.gov

or write:

State Certified Arbitration Program
Regulated Industries Complaints Office
235 S. Beretania Street, Ninth Floor
Honolulu, Hawaii 96813

This printed material can be made available for individuals with special needs in braille, large print or audio recording.

*Please submit your request to the
Consumer Resource Center at (808) 587-4272.*

IS MY MOTOR VEHICLE COVERED UNDER THE LEMON LAW?

Your motor vehicle may be covered if it is:

- a new motor vehicle (includes cars, trucks, motorcycles, autocycles, and demonstrator models). This also includes a motor vehicle transferred to a second purchaser while the manufacturer's written warranty is still in effect.
- purchased, leased, or currently registered and located in Hawaii.
- used primarily for personal, family, or household purposes; or
- individually registered but used for business purposes **and** for personal, family, or household purposes; or
- owned or leased by a business which has purchased or leased no more than one motor vehicle per year, used for household, individual, or personal use **in addition to** business use.

Your motor vehicle is **NOT** covered if it is:

- a moped or motor scooter; or
- a motor vehicle over 10,000 pounds, gross vehicle weight rating (GVWR)¹.

¹ GVWR is the maximum loaded weight of the vehicle as specified by the manufacturer. The GVWR can be found on the sticker that is placed on the driver side door jamb. The GVWR is NOT the weight of the vehicle as stated on your registration.

IS MY MOTOR VEHICLE A LEMON?

Your motor vehicle may be declared a lemon if it meets **all** of the following conditions:

- it has a nonconformity (a defect, malfunction, or condition); and
- the nonconformity is covered by the manufacturer's express warranty, and
- the nonconformity SUBSTANTIALLY impairs the use, market value, or safety of the car; and
- the nonconformity is not the result of an accident, abuse, neglect, or alteration of the car by persons other than the manufacturer or its authorized dealer; and
- you tried to get the nonconformity repaired by the manufacturer's authorized dealer during the Lemon Law Rights Period; and
- you sent written notification (preferably by certified mail, return receipt requested) to the **manufacturer** (not the dealer) of the nonconformity during the Lemon Law Rights Period², and
- you gave the manufacturer or its authorized dealer a reasonable opportunity to repair the nonconformity during the Lemon Law Rights Period, and
- you filed a request for arbitration with the State Certified Arbitration Program within one year after the Lemon Law Rights Period expired.

² If you did not receive a Notice of Consumer Rights from the dealership when you purchased the vehicle, the law does not require you to write to the manufacturer although it is a good idea to do so anyway. If you did not receive a Notice of Consumer Rights from the dealership, provide a completed "Certification of No Notice of Consumer Rights" when you submit your paperwork to this office.

WHEN DOES THE LEMON LAW RIGHTS PERIOD EXPIRE?

Assuming the express warranty³ is still in effect, the Lemon Law Rights Period expires two years after the date of the original delivery of the motor vehicle to a consumer or the first 24,000 miles of operation, whichever occurs first.

IS MY MOTOR VEHICLE'S NONCONFORMITY A SUBSTANTIAL IMPAIRMENT?

The nonconformity you are alleging must substantially impair your motor vehicle's use, safety, or value. "Substantially impairs" means "to render the motor vehicle unfit, unreliable, or unsafe for warranted or normal use, or to significantly diminish the value of the motor vehicle". You may be able to prove the motor vehicle's use is impaired if one of its major systems is defective or if the defect prevents it from being used in a normal fashion. A motor vehicle's value may be decreased by conditions that would lead a buyer to pay much less than the market price for a comparable motor vehicle that does not have the defect. You have the burden of proving to the arbitrator that your motor vehicle's problem constitutes a substantial impairment of use, safety, or value of the motor vehicle. You may need the help of a technical expert, such as a licensed mechanic, to prove your case.

³ "Express warranty" means any written warranty issued by the manufacturer, or any affirmation of fact or promise made by the manufacturer (not the dealer) which relates to the material or workmanship and affirms or promises that the vehicle shall conform to the affirmation or promise. An extended service contract is not the manufacturer's warranty under most circumstances and generally will not extend your rights through the Lemon Law, since the Lemon Law deals only with your rights against the manufacturer.

HOW MANY REPAIR ATTEMPTS DO I HAVE TO ALLOW?

One or more of the following rebuttable presumptions should apply to your motor vehicle:

- *Three times presumption*
 - you took your motor vehicle in for repair for the same nonconformity **at least** three times within the Lemon Law Rights Period but
 - the nonconformity **continued to exist after the third repair**.

- *One time "serious nonconformity" presumption*
 - you took your motor vehicle in for repair **at least** once for a serious nonconformity within the Lemon Law Rights Period, but
 - the nonconformity **continued to exist after the first repair** and is **likely to cause death or serious bodily injury** if the motor vehicle is driven.

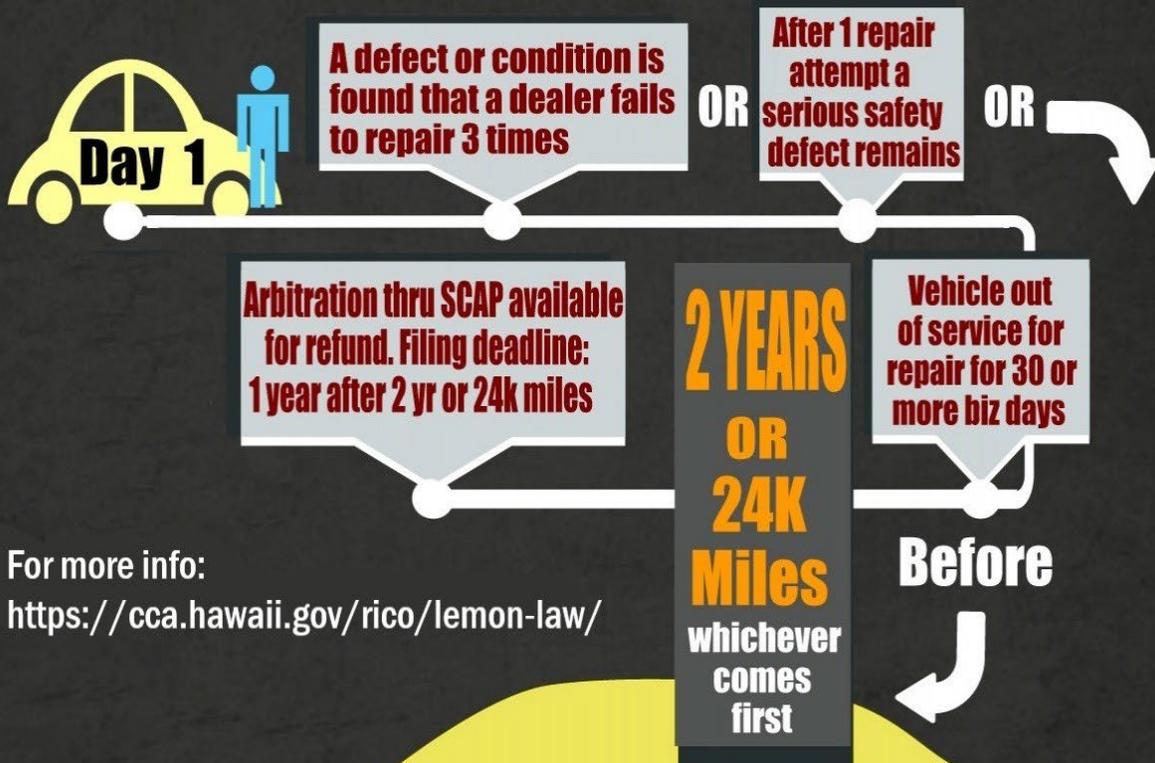
- *30 days presumption*
 - you took your motor vehicle in for repair for one or more nonconformities within the Lemon Law Rights Period and the total number of **business days** which the motor vehicle was subject to examination or repair adds up to **30 or more days**.

The more presumptions that apply to your motor vehicle the better. It may mean you have a stronger case. Make sure you claim each applicable presumption on your "Demand for Arbitration" form.

IMPORTANT: The presumptions in the law are just guidelines and are rebuttable. This means, for example, that the manufacturer may argue and present evidence to show that it was not given a reasonable opportunity to repair despite your argument that one or more of the presumptions have been met.

BUYING A NEW CAR?

Hawaii's Lemon Law Timeline from the State Certified Arbitration Program (SCAP)



For more info:
<https://cca.hawaii.gov/rico/lemon-law/>

SCAP Requirements:

- The problem or condition must be covered under factory warranty.
- You must have documented proof you provided the manufacturer a reasonable opportunity to repair.
- You must prove the defect substantially impairs the use, safety or value of the vehicle.

Department of Commerce
& Consumer Affairs of Hawaii



WHAT SHOULD I DO IF I THINK I QUALIFY FOR ARBITRATION?

1. Letter to manufacturer. Send a letter by certified mail, return receipt requested to the manufacturer within the Lemon Law Rights Period. Send it to the address given for the manufacturer on the Notice of Consumer Rights form which should have been given to you when you purchased your motor vehicle. You may use the "Letter to the Manufacturer" form provided to you in this handbook. Do not send the letter to the dealership.
2. Allow time. Although not required, it is reasonable to allow the manufacturer 10-14 business days from the date it receives your letter, to cure the problem(s).
3. Make payments. Continue to make your monthly payments on your financed or leased motor vehicle. Failure to do so may result in a repossession which may adversely affect your Lemon Law rights.
4. Allow inspection. The manufacturer has a right to inspect your motor vehicle after you have submitted a demand for arbitration and a case has been initiated. The manufacturer should arrange a mutually convenient time, date, and location with you. During the inspection, the motor vehicle may be test driven and tests with diagnostic equipment may be done. However, unless you authorize it, the manufacturer should not make another repair attempt. You have the right to review any test results before the arbitration. You also have the right to be present during the inspection.
5. Keep records. Keep a complete record of all of your dealings with the manufacturer and dealer, including copies of repair orders, letters, and records of phone calls or conversations. If it would help to prove the existence of the nonconformity, take photographs (for example, of a water leak problem) or make a video recording (for example, of an intermittent noise).
6. Decide if you want an attorney. Most consumers present their own cases. Manufacturers usually send a non-attorney representative to participate in the arbitration. However, if a manufacturer has an attorney or you feel uncomfortable without one, you may want to be represented by an attorney. The SCAP staff are NOT your representatives. If you decide to have an attorney represent you, please notify the SCAP staff as soon as possible.

7. Decide if you need witnesses. You may wish to have an expert witness, such as a mechanic, to testify that the problem is one that is a serious safety defect or to testify that the problem constitutes a substantial impairment of the use, safety, or value of the motor vehicle. You may also wish to call other lay witnesses who can personally testify as to the problems experienced with the motor vehicle. If you decide to have witnesses, please submit the “Notification of Witness(es) to Appear at Arbitration Hearing” form provided in this handbook.

8. Submit a Demand for Arbitration and supporting documents. There are two ways to submit a Demand for Arbitration—online through our website or by mail.
 - Online. Go to SCAP’s website at <https://cca.hawaii.gov/rico/lemon-law/> and click on the “Consumer Information” button. Carefully review the information on the consumer page and gather your supporting documents. When you are ready to submit an online demand, click on the “File A Demand For Arbitration” button at the bottom of the page. You will be taken to a secure portal where you may complete a demand form and upload a scanned copy of the necessary supporting documents. Please be sure to fill out the online demand form completely as it is your formal legal claim against the manufacturer. After you have completed the online process, you must mail a \$50.00 filing fee and two (2) copies of any supporting documents that were not uploaded with your online demand form. If your case goes through arbitration and the final decision is in your favor, your \$50.00 filing fee will be refunded to you. Your request for arbitration will not be processed until the demand form is filled out completely and accurately and all required documents are provided.

 - By Mail. Use the “Demand for Arbitration” form provided in this booklet. In this form, you are making your formal legal claims against the manufacturer so you must fill it out clearly and completely. If your demand form is unclear or incomplete, it will be returned to you. Attach extra sheets of paper, if necessary, to include all the information on the different problems and dates of repairs. Mail two (2) copies of the “Demand for Arbitration” form and all the supporting documents requested. Please do not provide original supporting documents as they will not be returned to you. A checklist of the documents to be submitted can be found at the end of this handbook. Collate the copies into two (2) identical packets. Only make single-sided copies and do not staple any documents together. You must also send a \$50.00 filing fee with your request. If your case goes through arbitration and the final decision is in your favor, your \$50.00 filing fee will be refunded to you. Your request for arbitration will not be processed until it is filled out completely and accurately and all requested documents are provided. Do not send back the rest of this booklet because it contains information you need to prepare for your arbitration hearing.

9. Wait for notification of initiation of case. The SCAP staff will notify you by letter when your case is initiated. After your case is initiated and the manufacturer is notified of your claim, the arbitration hearing will be scheduled and the arbitrator’s decision will be due within 45 days.

CAN I SETTLE MY CASE WITHOUT GOING TO ARBITRATION?

Certainly, if the manufacturer offers you a settlement of your case, you are free to negotiate with the manufacturer regarding the terms of the settlement, and you are free to accept a settlement. In that situation, you will no longer need to go through the arbitration and risk losing your case. You will also get your remedy sooner because the manufacturer can start processing the paperwork for the settlement as soon as you agree to it. However, it is wise to get the terms in writing before withdrawing from the arbitration process. You should ask the SCAP staff to place your case on hold while the details of the settlement are being worked out. You must communicate directly with the manufacturer's representative to obtain concrete figures and information on all the terms of the settlement. If the terms are unclear to you, you should persist in clearing them up to your satisfaction. Make sure you provide any requested paperwork to the manufacturer on a timely basis to expedite the settlement process. As soon as you have confirmed the agreed-upon terms, you should contact the SCAP staff member assigned to your case. Your \$50.00 filing fee will not be refunded as it defrays the administrative costs of the program.

Please note that if you have accepted a settlement offer and the manufacturer does not comply with the settlement, you may need to consult with an attorney to find out how to enforce the settlement agreement in court.

HOW SHOULD I PREPARE FOR THE ARBITRATION?

- Collect and organize your evidence. For example, arrange repair orders by date. If you are asking for collateral charges⁴ (such as tinting costs) or incidental charges⁵ (such as rental car costs) obtain proof of these expenses. Obtain a statement from your lender or leasing company showing all your payments made to date and the payoff amount to release the title of the motor vehicle. Your evidence may include repair orders, appraiser or used car dealer statements regarding the value of your motor vehicle, photographs, notarized statements or affidavits, diagrams, and video/audio recordings. You may also subpoena records with approval from the arbitrator deciding your claim.
- Arrange for witnesses. Although notarized affidavits may be allowed by the arbitrator, more credible evidence is provided by live witnesses. You may also subpoena witnesses with approval from the arbitrator deciding your claim. Subpoena instructions and forms are available by request from the SCAP staff.

Make sure your witnesses know when and where to be present and tell them the arbitration hearing may take up to four (4) hours. The arbitrator may employ the "witness exclusion rule". That means that your witness will only be allowed into the hearing room when it is their time to testify. Make sure you inform the SCAP staff member assigned to your case of any witnesses who will be attending and submit a completed "Notification of Witness(es) to Appear at Arbitration Hearing" form to the SCAP Portal as soon as possible.

- Prepare an outline. Prepare an outline to help you present and remember relevant information.
- Prepare your response to the manufacturer's arguments. You will receive access to the Manufacturer's Statement which says why it should not be required to replace or repurchase your motor vehicle. Be prepared to respond to those arguments.

⁴ *Collateral charges* are those additional charges incurred as a result of the acquisition of the motor vehicle. If manufacturer-installed or agent-installed items, taxes, government fees, etc. are included in your purchase contract, they are usually included as part of your refund if you win. You only have to provide additional proof of other charges that you paid separately.

⁵ *Incidental charges* are those reasonable costs incurred by a consumer, such as towing charges and rental car costs, which are directly caused by the defects which are the subject of the claim. They do not include loss of use, loss of income, or personal injury claims.

- Prepare questions for the manufacturer. Prepare questions for the manufacturer which may help to support your arguments, or which may cast doubt on the manufacturer's arguments.
- Get the motor vehicle ready for inspection or test-drive by the arbitrator. The arbitrator may request to inspect or test-drive your motor vehicle. If requested, you will be notified by the program so arrangements can be made.
- Decide if an interpreter is needed. Please notify the SCAP staff if an interpreter will be used at the arbitration hearing. You may bring to the arbitration hearing someone who can translate for you and/or your witness(es). Alternatively, an interpreter can be provided by the SCAP staff, if requested in advance. To avoid scheduling problems, please make the request as soon as possible.
- Decide if you want a binding or a non-binding arbitration. If you elect binding arbitration, neither party can ask for an appeal (called "trial de novo") of the arbitrator's decision in court. Under non-binding arbitration, either party may ask for a trial de novo, but it must be done within 30 days after receipt of the decision. Careful consideration should be given to an appeal because the court will order that all reasonable costs of the trial as well as attorney's fees be paid by the party who demanded the trial de novo if that party does not improve its position by at least 25%. If neither party elects a trial de novo within 30 days, the arbitrator's decision becomes binding.
- Watch the SCAP video. View the Lemon Law Hearing video located on our program's website: <http://cca.hawaii.gov/rico/lemon-law/> (Click on "Consumer Information". The video is under the "Prepare for the Hearing" section.). The video will show you a mock arbitration, give you a better idea of what to expect at the arbitration, and how best to prepare your case for presentation to the arbitrator.
- Internet research. Although the arbitrator may accept information from you regarding similar consumer complaints, take note that this information may not hold much weight because you may not be able to establish a direct relationship to your case. This is because the online complaint information does not usually include a determination as to the cause of the problems encountered, a technical assessment of the problems, whether the conditions were the same or similar, whether a combination of different malfunctions caused the problems, whether the problem is a design defect or an individual defect, or the results of the complaints. The motor vehicles complained about may also not be the exact same model and year as your motor vehicle. General complaint research will not have the same persuasive impact as live witnesses who can testify about similar complaints with your motor vehicle model and provide information on the repair attempts, tests, or inspections of the motor vehicles.

THE LEMON LAW ARBITRATION HEARING

- Where do I go? Hearings may be held either in person or via online video conference. Please refer to the Notice of Hearing to obtain information about where your hearing will be located.
- How long will it take? Typically, hearings may last from one to three hours depending on the complexities of the case and whether attorneys or witnesses are involved.
- What happens at the arbitration hearing? The arbitrator will make introductory remarks, and the parties may be allowed to make a short opening statement. Then you will present your side of the story. The arbitrator and the manufacturer's representative may ask you questions. Next, the manufacturer's case is presented. Then, you and the arbitrator may ask questions. At the conclusion of the hearing, each party may summarize and argue for a specific result. Unless the arbitrator orders you to turn in additional evidence, no further evidence is accepted after the hearing is completed.
- How do I present my case? The following is a guideline:
 1. State the specific nature of the problem.
 2. State any relevant conversations with the dealer or the manufacturer.
 3. Describe and document each repair attempt.
 4. Describe and document any new developments.
 5. Offer proof of each point, especially those in dispute.
 6. State what result you want. Briefly summarize the facts discussed.
- What do I have to prove? Depending on what is being disputed, you may need to prove to the arbitrator that:
 - your motor vehicle had a defect covered by warranty, and you reported it in writing to the manufacturer during the Lemon Law Rights Period;
 - you gave the manufacturer or its authorized dealer a reasonable opportunity to repair during the Lemon Law Rights Period (see page 5) but the defect still continued;
 - the defect **SUBSTANTIALLY** impairs the use, value, or safety of the motor vehicle, or the defect is so serious it is **LIKELY** to cause death or serious bodily injury if the motor vehicle is driven.

WHAT HAPPENS AFTER THE ARBITRATION HEARING?

- Receive decision by certified mail. The arbitrator's decision⁶ must be issued within 45 days after initiation of your case by the SCAP staff (unless an extension of time was agreed upon by both parties.) It will be sent to you by certified mail. If you chose non-binding arbitration and lost, you must decide whether you will appeal to the circuit court. You may need to consult your own attorney.
- If you get a refund, it may include any collateral or incidental charges which you presented to the arbitrator. However, **a reasonable mileage offset will be deducted using the formula provided by law**⁷. See the sample refund calculations on pages 14 and 15.
- If you get a replacement motor vehicle, this is supposed to be a "comparable" motor vehicle -- a motor vehicle identical or reasonably equivalent to the motor vehicle to be replaced, as it existed at the time of original acquisition. **You must pay the reasonable mileage offset as provided by law and you must arrange for comparable financing with your lender.** At times, a comparable replacement motor vehicle cannot be agreed upon. If this is so, your arbitrator may award you a refund instead of a replacement motor vehicle.
- Deadline for compliance. Generally, the deadline for compliance is within thirty (30) days from receipt of the decision. Usually, the manufacturer will contact you to arrange for the return of your motor vehicle in exchange for the refund or replacement motor vehicle (depending on what is awarded). If the manufacturer does not comply on a timely basis, you may need to consult with an attorney to find out how to enforce compliance with the decision in court.
- Under some circumstances, a party may file a request for clarification or request for technical correction with the SCAP staff member assigned to your case after the decision has been issued. Details will be provided to you with the issuance of the decision.
- Under very limited circumstances, a party may file a Motion to Correct or Motion to Vacate with Circuit Court. You would need to consult with your own attorney about this procedure.

⁶ All final decisions rendered in the State Certified Arbitration Program are public documents pursuant to Section 92F-12, HRS.

⁷ *Reasonable offset* for use means the number of miles attributable to the consumer up to the date of the third repair attempt or the date of the first repair attempt for a serious safety defect, or the date of the 30th cumulative business day when the motor vehicle is out of service by reason of repair, whichever occurs first. The reasonable offset for use is one percent of the purchase price for every thousand miles of use.

**HAWAII STATE CERTIFIED ARBITRATION PROGRAM
SAMPLE REFUND CALCULATION FOR PURCHASED
(Motor Vehicle Not Paid Off) OR LEASED MOTOR VEHICLE**

1.	Down Payment	\$ 1,500.00
2.	Net Value of Trade-in Motor Vehicle, if any	\$ 2,500.00
3.	Payments made as of the date of the hearing	\$ 5,872.00
4.	Collateral Charges, if any (e.g. tinting)	\$ 800.00
5.	Incidental Charges, if any (e.g. towing cost)	\$ 30.00
6.	Subtotal (sum of lines 1 – 5)	\$10,702.00
7.	Mileage Deduction (i.e. “reasonable offset”)	\$ 2,808.00
8.	Damage Offset, if any	\$ -----
9.	Consumer Refund (line 6 <u>minus</u> lines 7 & 8)	\$ 7,894.00

MILEAGE DEDUCTION CALCULATION

Basis:

Purchase price (or lease price*) less rebate, if any	\$27,995.00
1% of purchase price (or lease price)	\$ 279.95
Total mileage at 3rd repair** (Mileage at repair less mileage at purchase)	10,041 - 14 = 10,027
Mileage at 3rd repair ÷ 1,000	10.03

Calculation:

\$279.95 x 10.03 =	\$ 2,808.00
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* The “purchase price” of a leased motor vehicle is the lessor’s actual purchase cost of the motor vehicle. If unable to obtain this information, the arbitrator may use the agreed-upon value as shown on the lease contract.

** Mileage on the 3rd repair order is normally used, however, if the defect was one likely to cause death or serious bodily injury, mileage at the 1st repair attempt will be used, or if the 30-day presumption applies, the mileage on the repair order on the 30th day will be used, whichever occurs first.

LIENHOLDER REFUND: The Manufacturer shall refund to the lienholder or lessor the balance owed or payoff on the loan/lease to release the title. If this is a lease, the lease is terminated. No early termination penalties under the lease should be assessed.

**HAWAII STATE CERTIFIED ARBITRATION PROGRAM
SAMPLE REFUND CALCULATION FOR PURCHASED
MOTOR VEHICLE (Motor Vehicle Paid Off)**

1.	Down Payment	\$ 1,000.00
2.	Net Value of Trade-in Motor Vehicle, if any	\$ 0.00
3.	Monthly payments and final payoff	\$ 21,887.00
4.	Collateral charges, if any (<i>e.g. tinting</i>)	\$ 800.00
5.	Incidental Charges, if any (<i>e.g. towing cost</i>)	\$ 30.00
6.	Subtotal (sum of lines 1 – 5)	\$ 23,717.00
7.	Mileage Deduction (<i>i.e. "reasonable offset"</i>)	\$ 2,808.00
8.	Damage Offset, if any	\$ -----
9.	Consumer Refund (line 6 <u>minus</u> lines 7 & 8)	\$ 20,909.00

MILEAGE DEDUCTION CALCULATION

Basis:

Purchase price less rebate, if any	\$ 27,995.00
1% of purchase price	\$ 279.95
 Total mileage at 3rd repair*	 10,041 - 14 = 10,027
(<i>Mileage at repair less mileage at purchase</i>)	
Mileage at 3rd repair ÷ 1,000	10.03

Calculation:

\$279.95 x 10.03 =	\$ 2,808.00
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* Mileage on the 3rd repair order is normally used, however, if the defect was one likely to cause death or serious bodily injury, mileage at the 1st repair attempt will be used, or if the 30-day presumption applies, the mileage on the repair order at the 30th day will be used, whichever occurs first.

Via Certified Mail, Return Receipt Requested

LETTER TO THE MANUFACTURER
GIVING NOTICE OF MOTOR VEHICLE

To: _____
(Manufacturer Name)

(Obtain address from "Statement of Consumer's Rights under Hawaii's "Lemon Law" form or Warranty Booklet)

(Manufacturer's Complete Address)

Pursuant to the Hawaii Lemon Law, notice is hereby given of the need for repair of a continuing defect or condition, covered by the manufacturer's warranty:

_____ attempts have been made to repair the same defect or condition.
(# of attempts)

The vehicle has been out of service for _____ or more business days.
(# of business days)

The problem **is** / **is not** one which is likely to cause death or serious bodily injury if the vehicle is driven. (Please check one of the bolded options.)

Description of Defect(s): _____

Vehicle Make: _____ Model: _____

Vehicle Year: _____ VIN #: _____

Name and Full Address (Street, City, State & Zip Code) of Selling Dealer or Leasing Company:

Date of Purchase: _____

Odometer Reading at Date of Purchase (if known): _____

Present Odometer Reading: _____

Name and Full Address (Street, City, State & Zip Code) of Dealer(s) Attempting Previous Repairs:

Consumer Name(s): _____

Home/Business/Cell Phone Numbers: _____

Address: _____

Email Address: _____

Signature _____ Date: _____

Keep a copy of this completed form for your records.

DEMAND FOR ARBITRATION

CONSUMER INFORMATION (Your Information)	
CONSUMER #1	CONSUMER #2, if applicable as co-owners of vehicle
Name (First-Middle-Last <u>or</u> Business Name):	Name (First-Middle-Last <u>or</u> Business Name):
Mailing Address:	Mailing Address:
Telephone Numbers (✓ check best number to reach you at) Daytime phone: _____ Business phone: _____ Cell phone: _____	Telephone Numbers (✓ check best number to reach you at) Daytime phone: _____ Business phone: _____ Cell phone: _____
Email Address:	Email Address:
If someone is representing the CONSUMER(S), please complete this section. If Consumer is a <u>business</u>, this section is <u>required</u>.	
Representative's Name:	
Mailing Address:	Phone No.: _____
	Email Address: _____
Representative's Relationship to the CONSUMER(S):	

MANUFACTURER INFORMATION
Manufacturer's Name:
Manufacturer's Mailing Address:
Dealer or Lessor Name:
Dealer/Lessor Mailing Address:

VEHICLE INFORMATION		
Vehicle Make:	Model:	Year:
Original Purchase Date (Month-Day-Year):	Purchase Price:	
Vehicle ID Number:	Odometer Reading (at time of this application):	

I (We) hereby certify the following:
<p>I. (You must make a selection of A, B, or C below. Check only one.)</p> <p>A. This vehicle is used primarily for personal, family and/or household use.</p> <p>B. This vehicle is individually registered and used for business purposes as well as for personal, family or household purposes.</p> <p>C. This vehicle is owned or leased by a sole proprietorship, corporation or partnership which has purchased or leased no more than one vehicle per year, used for household, individual, or personal use in addition to business use.</p> <p>II. The gross weight of this vehicle does not exceed 10,000 pounds, gross vehicle weight rating.</p> <p>III. I (We) have notified the Manufacturer in writing about the alleged defect(s) and have given the Manufacturer a reasonable opportunity to correct the defect(s). <i>(Attach two [2] copies of the written notification to the Manufacturer and the certified mail return receipt, if notification was sent via certified mail.)</i></p> <p>IV. My vehicle's factory (manufacturer's) warranty expires on _____.</p> <p align="right"><i>(Month/Day/Year)</i></p>

V. I (We) hereby certify that during the lemon law rights period, the following condition(s) were met: (Check all that apply. At least one selection of A, B, or C must be made in this section.)

A. My vehicle's defect was subject to examination or repair at least once, but continues to be a defect which is likely to cause death or serious bodily injury if the vehicle is driven.

Description of Problem: _____

Repair Date 1: _____ Repair Date 2: _____ Repair Date 3: _____

B. My vehicle's defect was subject to examination or repair three or more times for the same problem by the manufacturer or its authorized agents, and the problem still exists.

Description of Problem: _____

Repair Date 1: _____ Repair Date 2: _____ Repair Date 3: _____

C. My vehicle has been out of service by reason of repair for a cumulative total of thirty or more business days during the Lemon Law Rights period. (Attach extra sheets if necessary to show all the problems and repair dates.)

	<u>Description of Problem(s)</u>	<u>Days of Repair</u>	<u>Date Reported</u>	<u>Odometer Reading</u>	<u>Work Order #</u>
1.	_____	_____	_____	_____	_____
2.	_____	_____	_____	_____	_____
3.	_____	_____	_____	_____	_____
4.	_____	_____	_____	_____	_____

VI. Which problem(s) mentioned above, continues to exist? _____

VII. Relief Sought (Check at least one): Replacement Vehicle Refund

VIII. Collateral Expenses (not included in the sales or lease agreement) (provide amount or check "None"): \$ _____ or None

IX. Incidental Expenses (e.g. towing, rental car, etc.) (provide amount or check "None"): \$ _____ or None

CERTIFICATION

In accordance with Chapter 481I, Hawaii Revised Statutes, I (We), the undersigned party(ies), hereby demand arbitration.

I hereby request arbitration of my case with the arbitrator, any witnesses, and relevant documents by the State Certified Arbitration Program of the Regulated Industries Complaints Office ("RICO"). I certify that all statements and attachments provided to RICO as part of this demand for arbitration are true and correct to the best of my knowledge. I certify that I am authorized to make this demand for arbitration. I understand that this document and its attachments are records of the Department of Commerce and Consumer Affairs.

I understand that RICO does not represent me in this matter. However, RICO will facilitate the arbitration hearing between me and the manufacturer. I understand my demand for arbitration cannot be reviewed until all documents and fees have been submitted.

Consumer #1 (or Representative) Signature: _____ Date: _____

Print Name of Signer: _____ Check here if signing as representative

Consumer #2 (or Representative) Signature, if applicable: _____ Date: _____

Print Name of Signer: _____ Check here if signing as representative

BINDING VS. NON-BINDING ARBITRATION

The Lemon Law Consumer Handbook¹ provides a detailed explanation of binding and non-binding arbitration, and it is advised that you read the explanation carefully before making your choice. Additionally, here are some frequently asked questions and answers.

Q: If I elect non-binding arbitration, will the manufacturer appeal the case if I win?

A: The manufacturer will certainly have the right to appeal. However, this rarely occurred in past cases.

Q: If I elect non-binding arbitration and lose, how do I appeal?

A: As the appeal process is complex, you will likely need a private attorney to help you file an appeal. The appeal must be filed within 30 days. This would provide you with the opportunity to have your case heard again, on the merits, in court. Your arbitration decision is NOT admissible as evidence at the trial. You must be able to improve your position by at least 25 percent at trial or you will be subject to court costs and attorney fees incurred at trial.

Q: What happens if I elect non-binding arbitration and I win?

A: If neither party appeals within 30 days of service of the arbitrator's decision, the decision becomes binding upon both parties.

Q: What happens if the manufacturer disagrees with my election?

A: Nothing. This is your election.

¹ A copy of the Lemon Law Consumer Handbook is available at <https://cca.hawaii.gov/rico/lemon-law/> under "Consumer Information".



STATE CERTIFIED ARBITRATION PROGRAM
 235 SOUTH BERETANIA STREET, 9TH FLOOR
 HONOLULU, HI 96813
cca.hawaii.gov/rico

ELECTION OF CONSUMER

Binding Arbitration

Pursuant to the provisions of Chapter 481I, Hawaii Revised Statutes, I, the undersigned consumer hereby agrees to participate in and be bound by the operation and decision of the State Certified Arbitration Program (“SCAP”). It is my understanding that this agreement obligates all parties to the above-captioned arbitration to participate in and be bound by said operation and decision. It is my understanding that a trial de novo will not be available to either party, based upon my decision that the arbitration be binding in nature.

Non-Binding Arbitration with Time Limitation

Pursuant to the provisions of Chapter 481I, Hawaii Revised Statutes, I, the undersigned consumer hereby agrees to participate in but not be bound by the operation and decision of the State Certified Arbitration Program (“SCAP”). It is my understanding that this agreement obligates all parties to the above-captioned arbitration to participate in but not be bound to the decision of the arbitrator. Accordingly, a trial de novo may be demanded by either party following the arbitration decision, based upon my decision that the arbitration be non-binding in nature. It is also my understanding that if there is no trial de novo demanded within thirty (30) days following the service of the arbitrator’s decision, then the arbitrator’s decision shall become final and binding upon all parties.

Consumer (or Representative) Signature:	Date:
Print Name of Consumer (or Representative):	<input type="checkbox"/> Check here if signing as Representative
Consumer 2 (or Representative) Signature:	Date:
Print Name of Consumer 2 (or Representative):	<input type="checkbox"/> Check here if signing as Representative

NOTICE OF CONSUMER RIGHTS UNDER HAWAII'S LEMON LAW

FOR NEW MOTOR VEHICLES

If a vehicle has a defect that *substantially* impairs the use, safety, or value of the vehicle and a reasonable opportunity to repair has been provided within the Lemon Law Rights Period, the manufacturer may be required to provide a refund or replacement vehicle to the consumer under the Lemon Law. To make this determination, a consumer may be eligible for the State Certified Arbitration Program (SCAP) administered by the Department of Commerce and Consumer Affairs. The Lemon Law Rights Period means the term of the manufacturer's express warranty, the period ending two (2) years after the date of the original delivery of a vehicle to a consumer, or the first 24,000 miles of operation, **WHICHEVER OCCURS FIRST**. At least one of the following must apply:

1. a "nonconforming defect" has been examined or repaired three or more times and the defect continues to exist; or
2. a "life-threatening safety defect" has been examined or repaired at least once and the defect continues to exist; or
3. the vehicle has been out of service because of repair of one or more defects for thirty (30) or more cumulative business days.

The manufacturer or its authorized dealer should provide this notice at time of purchase. If you received this notice, you must give the **manufacturer written notice** of the defect before the Lemon Law Rights Period expires. The manufacturer's address is as follows:

Whenever a vehicle is returned from diagnosis or repair under the manufacturer's warranty, the dealer must provide a legible itemized repair order. It is very important to keep copies of all repair orders.

Obtain more information to determine if you qualify to participate in the State Certified Arbitration Program (SCAP) by contacting:

Regulated Industries Complaints Office
Attn: State Certified Arbitration Program
235 S. Beretania Street, 9th Floor
Honolulu, HI 96813
(808) 587-4272

<https://cca.hawaii.gov/rico/lemon-law/>

If you qualify, your case must be initiated within one (1) year after the expiration of the Lemon Law Rights Period. There is a \$50.00 filing fee to process your case, which will be returned to you if you win after an arbitration hearing. The arbitration decision will be issued within forty-five (45) days after your case is initiated by the program.

* * * * *

I understand that it is the dealer's direct responsibility to provide me with this notice of my rights at the time that I purchase or lease my new motor vehicle.

I have been provided with a copy of this document including the address of the manufacturer's contact.

Signature: _____

Date: _____

This info is provided by:

Hawaii State
Department of Commerce &
and Consumer Affairs

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE CERTIFIED ARBITRATION PROGRAM
STATE OF HAWAII

In the arbitration of: _____) SCAP Case No. _____
)
)
_____,)
)
Consumer(s),) Certification of Consumer(s)
) Re: Notice of Consumer Rights
vs.)
)
_____,)
)
Manufacturer.)
)
_____)

I/We, _____ hereby certify that
(Name of Consumer(s))

I/we do not have a copy of the "Notice of Consumer Rights Under Hawaii's Lemon Law For New Motor Vehicles" for the following reason(s):

Consumer #1 Signature:

Consumer #2 Signature, if applicable:

Print Name of Signer:

Print Name of Signer:

Date:

Date:

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
 STATE CERTIFIED ARBITRATION PROGRAM
 STATE OF HAWAII

In the arbitration of:)	SCAP Case No. _____
)	
)	
vs.)	Notification of Witness(es) to Appear at Arbitration Hearing
)	
)	Hearing Date: _____
Manufacturer.)	
)	Hearing Time: _____

I declare that the witness(es) named below will be testifying at the arbitration hearing for the above-referenced case on behalf of the: **Consumer(s)** **Manufacturer:**

Name of Witness	Witness Type <i>(choose one)</i>	General Scope of Testimony <i>(Required)</i>
Witness 1:	Non-Expert Witness	
	Expert Witness <i>(attach résumé or curriculum vitae)</i>	
Witness 2:	Non-Expert Witness	
	Expert Witness <i>(attach résumé or curriculum vitae)</i>	
Witness 3:	Non-Expert Witness	
	Expert Witness <i>(attach résumé or curriculum vitae)</i>	

I am aware that the Arbitrator may exercise the witness exclusionary rule. As such, witness(es) may be excluded from the Arbitration hearing until it is their time to testify so that they do not hear the testimony of other witnesses, potentially influencing their testimony. Witness(es) may need to remain in another room until they are called to testify.

By: _____
 (Signature)

 (Print Name)

 (Date)

STATE CERTIFIED ARBITRATION PROGRAM
“LEMON LAW”
DEMAND FOR ARBITRATION CHECKLIST

To expedite the processing of your application for the State Certified Arbitration Program (SCAP), commonly referred to as the “Lemon Law,” please include the following:

- A fully completed “Demand for Arbitration” form.
- A complete copy of your motor vehicle’s sales contract or lease agreement.
- A copy of your letter to the manufacturer notifying them of the problem(s) with your motor vehicle and proof showing the date the manufacturer received the letter (i.e., the green United States Postal Service DOMESTIC RETURN RECEIPT card).
- Each work order applicable to the problem(s) with your motor vehicle on which you are basing your demand.
- The applicable pages of your motor vehicle’s manufacturer’s warranty (often called a “New Vehicle Limited Warranty”) detailing the length of the warranty and the parts covered. A copy of the warranty may be found in your vehicle owner’s manual or on the manufacturer’s website.
- A copy of the “Statement of Consumer’s Rights under Hawaii’s “Lemon Law”” you received at the time of your motor vehicle’s purchase or lease or a completed “Consumer Certification of No Notice of Consumer Rights” form.
- A **\$50.00 check** made payable to “**Director of Finance**”. Note that if your check is returned for insufficient funds, you will be assessed a \$25.00 penalty which must be paid in cash before your case is processed further.

Your application will not be processed unless the Demand for Arbitration form is completed in full and two (2) copies of the demand form and all other documents are provided. Please only make single-sided copies and collate the demand form and documents into two (2) identical packets. Please do not staple documents together. If you are unable to provide any of the above-referenced supporting documents, please provide a written explanation as to why the document(s) are not being provided. Please do not provide original supporting documents as they will not be returned to you.

Send the two (2) complete packets and the \$50.00 check to:

***State Certified Arbitration Program
Regulated Industries Complaints Office
235 S. Beretania Street, Ninth Floor
Honolulu, Hawaii 96813***