
A BILL FOR AN ACT

RELATING TO THE SMALL BUSINESS BILL OF RIGHTS.

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

1 PART I

2 SECTION 1. The legislature finds that small businesses are
3 an essential element in strengthening and diversifying Hawaii's
4 economy and creating jobs for our people. To help ensure that
5 they can achieve this goal, a "small business bill of rights"
6 would afford small businesses equal and fair treatment as well
7 as reduce the numerous roadblocks to business success, which
8 will inevitably lead to more investment and job growth in
9 Hawaii.

10 The legislature also finds that in the past decade, states
11 adopting a less burdensome method of issuing permits and
12 enforcing laws have obtained more cooperation and have increased
13 regulatory compliance by working in partnership with businesses.
14 Because the regulatory system is often driven by a "fine-and-
15 punishment" approach, state agencies and private businesses
16 often are unnecessarily antagonistic. The small business
17 regulatory review board was established by the legislature in



1 1998 to address these concerns. It works closely with state and
2 county agencies that adopt rules to help reduce the regulatory
3 burden. A "bill of rights" is an essential part of the review
4 process.

5 To ensure that state administrative rules remain relevant
6 to evolving business practices and conditions, a "sunset"
7 process for review of state administrative rules should be put
8 into effect. Every administrative rule maintained by any state
9 agency should be reviewed, updated, and, if appropriate,
10 eliminated by that agency. The small business regulatory review
11 board should assist in that process by reviewing on a periodic
12 basis existing rules to ensure that more innovative approaches
13 to business regulation are fully considered.

14 "Small business", meaning any legal entity that is
15 independently owned and operated and employs not more than one
16 hundred full-time employees, is the backbone of Hawaii's
17 economy, and is central to Hawaii's way of life. More than 95
18 per cent of all Hawaii establishments are small businesses, and
19 they provide jobs for 60 per cent of all Hawaii employees.
20 Accordingly, future growth in Hawaii's workforce will come
21 primarily from new, homegrown businesses and from existing small
22 businesses that hire new workers.



1 Hawaii's residents should be able to enjoy a business
2 culture that encourages and supports small business. Hawaii
3 currently has the natural, technical, and human resources to
4 ensure that every person who wants to work can achieve
5 meaningful employment and that every company has access to what
6 it needs not only to survive but also to thrive.

7 The purpose of this Act is to set forth specific "rights"
8 that small businesses should have and to allow them to achieve
9 success for themselves and their employees for the good of all
10 the people of Hawaii.

11 SECTION 2. The rights of small businesses in the State of
12 Hawaii include but are not limited to:

13 (1) The right to expect state agencies to provide a
14 prompt, accurate, and courteous response to a request
15 for information and to work together to ensure ready
16 access to the information needed to assist businesses
17 in their relationships with state government;

18 (2) The right to a clear, stable, and predictable
19 regulatory and record-keeping environment with easily
20 accessible information and administrative rules in as
21 clear and concise language as is practicable,
22 including the posting of all proposed administrative



1 rule changes on the Internet website of the office of
2 the lieutenant governor;

3 (3) The right to timely notice of an agency's rulemaking
4 proceedings when requested. The notice should be
5 mailed to all persons who have made a written request
6 for such a notice;

7 (4) The right to be treated equally and fairly, with
8 reasonable access to state services;

9 (5) The right to a one-stop permitting process that
10 includes a centralized Internet website-based
11 application system. This site should have quick and
12 responsible timeframes to process state and county
13 permits, licenses, registrations, and approvals, when
14 appropriate, to simplify and reduce the filing of
15 forms affecting business;

16 (6) The right to a timely response to an application for a
17 permit, license, registration, or approval necessary
18 to operate the small business, within the established
19 maximum period of time for that agency in accordance
20 with section 91-13.5, Hawaii Revised Statutes;

21 (7) The right to automatic renewal of essential permits,
22 licenses, registrations, or approvals, absent a



1 specific reason for nonrenewal. All issuing agencies
2 shall take action to grant or deny any renewal
3 application for a business or development-related
4 permit, license, registration, or approval within the
5 established maximum period of time for that agency.

6 If an agency intends to deny the business or
7 development-related permit, license, registration, or
8 approval, the agency should give notice to the holder
9 of the permit, license, registration, or approval,
10 thirty days before the expiration with the reasons for
11 denial. The reasons for denial should be clearly
12 stated and under conditions set forth in law;

- 13 (8) The right to a timely hearing in the event a state
14 regulatory agency takes an adverse action against a
15 business. Officials conducting such hearings should
16 be impartial. Small businesses should be provided a
17 full and complete hearing to present their explanation
18 of any alleged violation, deficiency, or wrongdoing.
19 In any hearing, there should be a presumption that the
20 small business did not commit an alleged violation or
21 wrongdoing until the agency proves otherwise by a
22 preponderance of the evidence. The small business



1 should have the right to present evidence, both oral
2 and written. This evidence must be fully considered
3 by the agency. In the event of an unfavorable
4 decision, the business should have the right to a
5 judicial review pursuant to section 91-14, Hawaii
6 Revised Statutes;

7 (9) The right to be notified, in writing, at least thirty
8 days prior to any adverse action by any state agency
9 because of a violation of civil law, except where the
10 violation has health, safety, or environmental impact,
11 or may result in economic loss, unless that notice
12 would allow possible destruction of evidence,
13 continued unlawful practice, or flight;

14 (10) The right to privacy regarding confidential and
15 proprietary business information when competing for
16 state procurement contracts. No state agency shall
17 mandate the disclosure of confidential or proprietary
18 business information as a condition of obtaining any
19 contract or payment under any contract when a contract
20 is to be awarded on a firm fixed price or cost plus
21 fixed price basis;



- 1 (11) The right to all of the protections afforded in the
2 Taxpayer Bill of Rights, P.L. 104-168;
- 3 (12) The right to request information relating to
4 administrative actions of state agencies from the
5 office of the ombudsman, in accordance with chapter
6 96, Hawaii Revised Statutes, except where prohibited
7 by law;
- 8 (13) The right to request information and an opinion from
9 the office of information practices, in accordance
10 with chapters 92 and 92F, Hawaii Revised Statutes,
11 with regard to access to information from public
12 meetings or the release of government documents;
- 13 (14) The right to provide information to the division of
14 consumer advocacy in accordance with chapter 269,
15 Hawaii Revised Statutes, with regard to issues under
16 the purview of the public utilities commission;
- 17 (15) The right to request information from the office of
18 consumer protection, in accordance with chapter 487,
19 Hawaii Revised Statutes, with regard to business and
20 consumer issues;
- 21 (16) The right to access the small business advocate in the
22 department of business, economic development, and



1 tourism regarding any dispute with a state agency to
2 ensure government resources are coordinated on behalf
3 of small business and the rights of businesses are
4 being upheld; and

5 (17) The right to administrative rule review pursuant to
6 the Small Business Regulatory Flexibility Act by
7 filing a petition with the small business regulatory
8 review board in accordance with section 201M-6, Hawaii
9 Revised Statutes.

10 SECTION 3. Any person who is injured by reason of any
11 violation of any right under this Act may lodge a complaint with
12 the ombudsman, who shall promptly investigate the complaint and
13 render findings, opinions, and a recommendation.

14 PART II

15 SECTION 4. Section 96-8, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§96-8 Appropriate subjects for investigation.** An
18 appropriate subject for investigation is an administrative act
19 of an agency which might be:

- 20 (1) Contrary to law;
21 (2) Unreasonable, unfair, oppressive, or unnecessarily
22 discriminatory, even though in accordance with law;



- 1 (3) Based on a mistake of fact;
- 2 (4) Based on improper or irrelevant grounds;
- 3 (5) Unaccompanied by an adequate statement of reasons;
- 4 (6) Performed in an inefficient manner; [~~or~~]
- 5 (7) Otherwise erroneous[~~-~~]; or
- 6 (8) A violation of the small business bill of rights.

7 The ombudsman may investigate to find an appropriate
8 remedy."

9 SECTION 5. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 6. This Act shall take effect on July 1, 2034.



Report Title:
Small Business

Description:
Establishes the Small Business Bill of Rights. Requires the Ombudsman to investigate complaints of violations of the Small Business Bill of Rights. (HB2736 HD1)

