
A BILL FOR AN ACT

RELATING TO GAMING.

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

1 SECTION 1. The legislature finds that the visitor industry
2 continues to be the State's largest sector despite numerous and
3 continuing attempts to diversify Hawaii's economy. Although
4 Hawaii has enjoyed several recent years of improvement in
5 tourism to the islands, global competition in the visitor
6 industry remains extremely strong. Hawaii has its own
7 competitive advantage in that it possesses several unique
8 attributes that persuade visitors to make the State their
9 destination of choice. However, gaming, particularly casino
10 gaming, has proliferated throughout not only the United States
11 but the entire world and has become almost a standard attraction
12 in many resort and visitor destinations. Not to offer casino
13 gaming in Hawaii handicaps the State and diminishes our
14 competitive advantage as a visitor destination.

15 At the same time, the State and the city and county of
16 Honolulu have just embarked on the largest and costliest
17 construction project in the State's history by approving the
18 construction of a fixed guideway transportation system on Oahu.



1 To this end, the State has authorized and imposed a general
2 excise tax surcharge of one-half per cent on Oahu and residents
3 and businesses on Oahu have already begun paying this surcharge
4 as of January 1, 2007. Although there is potentially federal
5 funding involved, much of the cost has to be paid for locally.
6 History and experience have also demonstrated that, in the harsh
7 light of reality, cost estimates almost inevitably turn out to
8 be understated when numerous factors are taken into account such
9 as inflation, unanticipated contingencies, cost-overruns, delays
10 caused by weather or other factors, and other often-cited
11 causes. Any additional costs must be borne by taxpayers.

12 In this light, the State should pursue various economic
13 opportunities including limited casino gaming in the State.
14 Thousands of permanent jobs will be created for work directly
15 connected with casino facilities themselves. In addition,
16 thousands of other jobs will be generated during construction of
17 casino facilities.

18 It is critical to the hotel and visitor industry that
19 casino facilities not include any hotels. The casino facilities
20 will bring millions of new tourists who will be able to stay in
21 existing hotels and use existing services.



1 The purpose of this Act is to allow casino gaming on Oahu
2 to improve Hawaii's economy, increase revenues, of which a
3 portion will support the city and county of Honolulu to pay for
4 the construction of a fixed guideway transportation system on
5 Oahu, and to repeal the county surcharge on state tax.

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 CASINO GAMING

11 § -1 **Limited casino gaming authorized.** Casino gaming
12 and a system of wagering incorporated therein, as defined in
13 this chapter, are authorized to the extent that they are carried
14 out in accordance with this chapter.

15 § -2 **Definitions.** As used in this chapter, unless the
16 context clearly requires otherwise:

17 "Affiliate" means a person who, directly or indirectly,
18 through one or more intermediaries:

19 (1) Controls, is controlled by, or is under common control
20 with;

21 (2) Is in a partnership or joint venture relationship
22 with; or



1 (3) Is a co-shareholder of a corporation, a co-member of a
2 limited liability company, or a co-partner in a
3 limited liability partnership with;
4 a person who holds or applies for a casino license under this
5 chapter.

6 "Agent" means any person who is employed by any agency of
7 the State, other than the commission, who is assigned to perform
8 full-time services on behalf of or for the benefit of the
9 commission regardless of the title or position held by that
10 person.

11 "Applicant" means any person who applies for a license or
12 for registration under this chapter.

13 "Casino facility" means a freestanding, land-based
14 structure that may include structures with bars, restaurants,
15 showrooms, theaters, or other facilities but does not include
16 any structure used for hotel or other transient accommodation
17 lodging purposes.

18 "Casino gaming", "limited casino gaming", "game", or
19 "gaming", as the context may require, means the operation of
20 games licensed under this chapter including but not limited to
21 baccarat, twenty-one, poker, craps, slot machine, video gaming
22 of chance, roulette wheel, Klondike table, punch-board, faro



1 layout, numbers ticket, push car, jar ticket, pull tab, or other
2 game of chance that is authorized by the commission as a
3 wagering device.

4 "Casino license" means a license to operate and maintain a
5 casino facility or facilities for casino gaming permitted under
6 this chapter.

7 "Chairperson" means the member of the Hawaii gaming control
8 commission selected by the other members of the Hawaii gaming
9 control commission pursuant to section -3(f).

10 "Commission" means the Hawaii gaming control commission as
11 established in section -3.

12 "Department" means the department of business, economic
13 development, and tourism.

14 "Executive director" means the executive director of the
15 commission.

16 "Financial interest" or "financially interested" means any
17 interest in investments, awarding of contracts, grants, loans,
18 purchases, leases, sales, or similar matters under consideration
19 or consummated by the commission or holding a one per cent or
20 more ownership interest in an applicant or a licensee. A
21 member, employee, or agent of the commission shall be considered



1 to have a financial interest in a matter under consideration if
2 any of the following circumstances exist:

3 (1) The individual owns one per cent or more of any class
4 of outstanding securities that are issued by a party
5 to the matter under consideration or consummated by
6 the commission; or

7 (2) The individual is employed by or is an independent
8 contractor for a party to the matter under
9 consideration or consummated by the commission.

10 "Gross receipts" means:

11 (1) The total of:

12 (A) Cash received as winnings;

13 (B) Cash received in payment for credit extended by a
14 licensee to a patron for purposes of gaming; and

15 (C) Compensation received for conducting any game in
16 which the licensee is not party to a wager; and

17 (2) Does not include:

18 (A) Counterfeit money or tokens;

19 (B) Coins of other countries that are received in
20 gaming devices;



1 (C) Cash taken in fraudulent acts perpetrated against
2 a licensee for which the licensee is not
3 reimbursed; and

4 (D) Cash received as entry fees for contests or
5 tournaments in which patrons compete for prizes.

6 "Individual" means a natural person.

7 "Institutional investor" means:

8 (1) Any retirement fund administered by a public agency
9 for the exclusive benefit of federal, state, or county
10 public employees;

11 (2) An employee benefit plan, or pension fund that is
12 subject to the Employee Retirement Income Security Act
13 of 1974, as amended;

14 (3) An investment company registered under the Investment
15 Company Act of 1940 (title I of chapter 686, 54 Stat.
16 789, 15 U.S.C. 80a-1 to 80a-3 and 80a-4 to 80a-64);

17 (4) A collective investment trust organized by a bank
18 under part 9 of the rules of the Comptroller of the
19 Currency;

20 (5) A closed end investment trust;

21 (6) A chartered or licensed life insurance company or
22 property and casualty insurance company;



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- 1 (7) A chartered or licensed financial institution;
- 2 (8) An investment advisor registered under the Investment
- 3 Advisers Act of 1940 (Title 11 of Chapter 686,54 Stat.
- 4 847, 15 U.S.C 80b-1 to 80b-21); or
- 5 (9) Any other person as the commission may determine for
- 6 reasons consistent with this chapter.

7 "Investigative hearing" means any hearing conducted by the
8 commission or its authorized representative to investigate and
9 gather information or evidence regarding pending license
10 applicants, qualifiers, licensees, or alleged or apparent
11 violations of this chapter or rules adopted by the commission.
12 An investigative hearing shall include any matter related to an
13 apparent deficiency.

14 "Occupational license" means a license issued by the
15 commission to a person or entity to perform an occupation
16 relating to casino gaming in the State that the commission has
17 identified as an occupation that requires a license.

18 "Person" means an individual, association, partnership,
19 estate, trust, corporation, limited liability company, or other
20 legal entity.

21 "Qualifier" means an affiliate, affiliated company,
22 officer, director, or managerial employee of the applicant, or a



1 person who holds greater than a five per cent direct or indirect
2 interest in an applicant. As used herein "affiliate" and
3 "affiliated company" do not include a partnership, a joint
4 venture relationship, a co-shareholder of a corporation, a co-
5 member of a limited liability company, or a co-partner in a
6 limited liability partnership that has a five per cent or less
7 direct interest in the applicant and is not involved in the
8 casino as defined in rules adopted by the commission.

9 "Supplier" means a person that the commission has
10 identified under rules adopted by the commission as requiring a
11 license to provide casino licensees with goods or services
12 regarding the realty, construction, maintenance, or business of
13 a proposed or existing casino facility on a regular or
14 continuing basis, including junket enterprises, security
15 businesses, manufacturers, distributors, persons who service
16 gaming devices or equipment, garbage haulers, maintenance
17 companies, food purveyors, and construction companies.

18 "Supplier's license" means a license to furnish any
19 equipment, devices, supplies, or services to a licensed casino
20 gaming operation permitted under this chapter.

21 § -3 **Hawaii gaming control commission.** (a) There is
22 established the Hawaii gaming control commission which shall be



1 a body corporate and a public instrumentality of the State for
2 the purpose of implementing this chapter. The commission shall
3 be placed within the department of business, economic
4 development, and tourism for administrative purposes. The
5 commission shall consist of seven members to be appointed by the
6 governor with the advice and consent of the senate under section
7 26-34. Of the seven members, two shall be appointed from a list
8 of nominees submitted by the president of the senate and two
9 shall be appointed from a list of nominees submitted by the
10 speaker of the house of representatives. All appointments to
11 the commission shall be made within sixty days of the effective
12 date of this Act. The members shall elect one individual from
13 among themselves to serve as chairperson of the commission.

14 (b) No person shall be appointed as a member of the
15 commission or continue to be a member of the commission if the
16 person:

- 17 (1) Is an elected state official;
- 18 (2) Is licensed by the commission pursuant to this
19 chapter, or is an official of, has a financial
20 interest in, or has a financial relationship with, any
21 gaming operation subject to the jurisdiction of this
22 commission pursuant to this chapter;



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1 (3) Is related to any person within the second degree of
2 consanguinity or affinity who is licensed by the
3 commission pursuant to this chapter; or

4 (4) Has been under indictment, convicted, has pled guilty
5 or nolo contendere, or has forfeited bail for a felony
6 or a misdemeanor involving gambling or fraud under the
7 laws of this State, any other state, or the United
8 States within the ten years prior to appointment or a
9 local ordinance in a state involving gambling or fraud
10 that substantially corresponds to a misdemeanor in
11 that state within the ten years prior to appointment.

12 (c) The term of office of a commission member shall be
13 four years. Vacancies in the commission shall be filled for the
14 unexpired term in like manner as the original appointments.

15 (d) The governor may remove or suspend for cause any
16 member of the commission after due notice and public hearing.

17 The president of the senate or the speaker of the house of
18 representatives may request that the governor remove or suspend
19 a member of the commission that is nominated by either the
20 president of the senate or the speaker of the house of
21 representatives. Upon receipt of a request from either the
22 president of the senate or the speaker of the house of



1 representatives, the governor shall remove or suspend the member
2 or members of the commission in question.

3 (e) Members shall:

4 (1) Be a resident of the State of Hawaii;

5 (2) Serve part-time;

6 (3) Be paid compensation of \$300 for each day in the
7 performance of official duties; and

8 (4) Be reimbursed for expenses, including travel expenses,
9 incurred in the performance of official duties.

10 (f) Officers of the commission, including the chairperson,
11 shall be selected by the members. The commission, subject to
12 chapter 92, shall hold at least one meeting in each quarter of
13 the State's fiscal year. Special meetings may be called by the
14 chairperson or any four members upon seventy-two hours written
15 notice to each member. Four members shall constitute a quorum,
16 and a majority vote of the members present shall be required for
17 any final determination by the commission. The commission shall
18 keep a complete and accurate record of all its meetings.

19 (g) Before assuming the duties of office, each member of
20 the commission shall take an oath that the member shall
21 faithfully execute the duties of office according to the laws of
22 the State and shall file and maintain with the director a bond



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1 in the sum of \$25,000 with good and sufficient sureties. The
2 cost of any bond for any member of the commission under this
3 section shall be considered a part of the necessary expenses of
4 the commission.

5 (h) The commission shall appoint a person to serve as the
6 executive director of the commission subject to the commission's
7 supervision. The executive director shall:

- 8 (1) Hold office at the will of the commission;
- 9 (2) Be exempt from chapters 76 and 89;
- 10 (3) Devote full time to the duties of the office;
- 11 (4) Not hold any other office or employment;
- 12 (5) Perform any and all duties that the commission
13 assigns;
- 14 (6) Keep records of all proceedings of the commission and
15 preserve all records, books, documents, and other
16 papers belonging to the commission or entrusted to its
17 care; and
- 18 (7) Receive an annual salary at an amount set by the
19 commission, and shall be reimbursed for expenses
20 actually and necessarily incurred in the performance
21 of the executive director's duties.



1 (i) Except as otherwise provided by law, the executive
2 director may:

3 (1) Hire assistants, other officers, and employees, who
4 shall be exempt from chapters 76 and 89 and who shall
5 serve at the will of the executive director; and

6 (2) Appoint committees and consultants necessary for the
7 efficient operation of casino gaming; provided that no
8 person shall be hired or appointed under this
9 subsection that:

10 (A) Is an elected state official;

11 (B) Is licensed by the commission pursuant to this
12 chapter or is an official of, has a financial
13 interest in, or has a financial relationship
14 with, any gaming operation subject to the
15 jurisdiction of this commission pursuant to this
16 chapter;

17 (C) Is related to any person within the second degree
18 of consanguinity or affinity who is licensed by
19 the commission pursuant to this chapter; or

20 (D) Has been under indictment, convicted, has pled
21 guilty or nolo contendere, or has forfeited bail
22 for a felony or misdemeanor concerning gambling



1 or fraud under the laws of this State, any other
2 state, or the United States within the last ten
3 years, or a local ordinance in any state
4 involving gambling or fraud that substantially
5 corresponds to a misdemeanor in that state within
6 the ten years prior to employment.

7 (j) The salaries of employees shall be set by the
8 executive director.

9 (k) The commission shall adopt rules in accordance with
10 chapter 91 establishing a code of ethics for its employees that
11 shall include restrictions on which employees are prohibited
12 from participating in or wagering on any game or gaming
13 operation subject to the jurisdiction of the commission. The
14 code of ethics shall be separate from and in addition to any
15 standards of conduct set forth pursuant to chapter 84.

16 (1) A person shall not be appointed to or employed by the
17 commission if any of the following circumstances exist:

18 (1) During the three years immediately preceding
19 appointment or employment, the person held any direct
20 or indirect interest in, or was employed by:

21 (A) A casino licensee under this chapter or in
22 another jurisdiction; or



- 1 (B) A potential casino licensee who had an
2 application to operate a casino pending before
3 the commission or any other jurisdiction;
4 except that the person seeking employment may be
5 employed by the commission if the person's interest in
6 any casino licensee would not, in the opinion of the
7 commission, interfere with the objective discharge of
8 the person's employment obligations. A person shall
9 not be employed by the commission if the person's
10 interest in the casino licensee constitutes a
11 controlling interest in that casino licensee; or
- 12 (2) The person or the person's spouse, parent, child,
13 child's spouse, or sibling, is a member of the
14 commission, or a director of, or a person financially
15 interested in, any person licensed as a casino
16 licensee or casino supplier, or any person who has an
17 application for a license pending before the
18 commission.
- 19 (m) Each member of the commission, the executive director,
20 and each key employee as determined by the commission shall file
21 with the governor, a financial disclosure statement:



1 (1) Listing all assets, liabilities, and property and
2 business interests of the member, executive director,
3 key employee, and any of their spouses; and

4 (2) Affirming that the member, executive director, and key
5 employee are in compliance with this chapter.

6 The financial disclosure statement shall be made under oath and
7 filed at the time of employment and annually thereafter.

8 (n) Each employee of the commission shall file with the
9 commission a financial disclosure statement listing all assets,
10 liabilities, property and business interests, and sources of
11 income of the employee and the employee's spouse. This
12 subsection does not apply to the executive director or a key
13 employee.

14 (o) A member of the commission, executive director, or key
15 employee shall not hold direct or indirect interest in, be
16 employed by, or enter into a contract for service with, any
17 applicant or person licensed by or registered with the
18 commission for a period of four years after the date the
19 person's membership on or employment with the commission
20 terminates.

21 (p) An employee of the commission shall not acquire any
22 direct or indirect interest in, be employed by, or enter into a



1 contract for services with any applicant or person licensed by
2 or registered with the commission for a period of two years
3 after the date the person's employment with the commission is
4 terminated.

5 (q) A commission member or a person employed by the
6 commission shall not represent a person or party other than the
7 State before or against the commission for a period of two years
8 after the termination of the member's term of office or the
9 employee's period of employment with the commission.

10 (r) A business entity in which a former commission member
11 or employee or agent has an interest, or any partner, officer,
12 or employee of the business entity, shall not make any
13 appearance or representation before the commission that is
14 prohibited to that former member, employee, or agent. As used
15 in this subsection, "business entity" means a corporation,
16 limited liability company, partnership, limited liability
17 partnership association, trust, or other form of legal entity.

18 § -4 Staff. (a) The executive director shall keep
19 records of all proceedings of the commission and shall preserve
20 all records, books, documents, and other papers belonging to the
21 commission or entrusted to its care relating to casino gaming.



1 (b) The commission may employ any personnel that may be
2 necessary to carry out its duties related to casino gaming.

3 § -5 Powers of the commission. The commission shall
4 have all powers necessary to fully and effectively supervise all
5 casino gaming operations, including the power to:

6 (1) Administer, regulate, and enforce the system of casino
7 gaming established by this chapter. The commission's
8 jurisdiction shall extend to every person,
9 association, corporation, partnership, trust, and any
10 other entity with a financial interest in or holding a
11 license under this chapter, or required under this
12 chapter to hold a license in casino gaming operations
13 in the city and county of Honolulu;

14 (2) Issue a license to operate a casino facility or casino
15 facilities pursuant to this chapter;

16 (3) Determine the types and numbers of occupational and
17 supplier's licenses to be permitted under this
18 chapter;

19 (4) Adopt standards for the licensing of all persons under
20 this chapter subject to the qualifications and
21 standards set forth herein, to issue licenses, and to
22 establish and collect fees for these licenses;



- 1 (5) Provide for the collection of all taxes imposed
2 pursuant to this chapter, and to collect, receive,
3 expend, and account for all revenues derived from
4 casino gaming within the city and county of Honolulu;
- 5 (6) Enter at any time without a warrant and without notice
6 to the licensees, the premises, offices, casinos,
7 facilities, or other places of business of a casino
8 licensee, or casino supplier licensee, where evidence
9 of the compliance or noncompliance with this chapter
10 or rules is likely to be found. Entry is authorized
11 to:
- 12 (A) Inspect and examine all premises wherein casino
13 gaming or the business of gaming or the business
14 of a supplier is conducted, or where any records
15 of the activities are prepared;
- 16 (B) Inspect, examine, audit, impound, seize, or
17 assume physical control of, or summarily remove
18 from the premises all books, ledgers, documents,
19 writings, photocopies of correspondence records,
20 videotapes, including electronically stored
21 records, money receptacles, other containers and
22 their contents, equipment in which the records



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1 are stored, or other gaming related equipment and
2 supplies on or around the premises, including
3 counting rooms;

4 (C) Inspect the person, and inspect, examine, and
5 seize personal effects present in a casino
6 facility licensed under this chapter, of any
7 holder of a licensed casino facility; and

8 (D) Investigate and deter alleged violations of this
9 chapter or rules;

10 (7) Investigate alleged violations of this chapter and to
11 take appropriate disciplinary action against a
12 licensee or a holder of an occupational license for a
13 violation, or institute appropriate legal action for
14 enforcement, or both;

15 (8) Be present, through its inspectors and agents, any
16 time casino gaming operations are conducted in any
17 casino for the purpose of certifying the revenue
18 thereof, receiving complaints from the public, and
19 conducting other investigations into the conduct of
20 the casino gaming and the maintenance of the equipment
21 as from time to time the commission may deem necessary
22 and proper;



- 1 (9) Adopt appropriate standards for all casino facilities
2 as well as for electronic or mechanical gaming
3 devices;
- 4 (10) Require that records including financial or other
5 statements of any licensee under this chapter be kept
6 in the manner prescribed by the commission and that
7 any licensee involved in the ownership or management
8 of casino gaming operations submit to the commission
9 an annual balance sheet and profit and loss statement,
10 a list of the stockholders or other persons having a
11 five per cent or greater beneficial interest in the
12 gaming activities of each licensee, and any other
13 information the commission deems necessary to
14 effectively administer this chapter;
- 15 (11) Conduct hearings, issue subpoenas for the attendance
16 of witnesses and subpoenas duces tecum for the
17 production of books, records, and other pertinent
18 documents, and to administer oaths and affirmations to
19 the witnesses, when, in the judgment of the
20 commission, it is necessary to administer or enforce
21 this chapter. The executive director or the executive
22 director's designee is also authorized to issue



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1 subpoenaes and to administer oaths and affirmations to
2 witnesses;

3 (12) Prescribe any employment application form to be used
4 by any licensee involved in the ownership or
5 management of casino gaming operations for hiring
6 purposes;

7 (13) Eject or exclude, or authorize the ejection or
8 exclusion of, any person from casino facilities where
9 the person is in violation of this chapter or where
10 the person's conduct or reputation is such that the
11 person's presence within a casino facility, in the
12 opinion of the commission, may call into question the
13 honesty and integrity of the casino gaming operation
14 or interfere with the orderly conduct thereof or any
15 other action that, in the opinion of the commission,
16 is a detriment or impediment to the casino gaming
17 operations; provided that the propriety of that
18 ejection or exclusion shall be subject to subsequent
19 hearing by the commission;

20 (14) Permit licensees of casino gaming operations to use a
21 wagering system whereby wagerers' money may be
22 converted to tokens, electronic cards, or chips, which



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1 shall be used only for wagering within the casino
2 facility;

3 (15) Suspend, revoke, or restrict licenses, to require the
4 removal of a licensee or an employee of a licensee for
5 a violation of this chapter or a commission rule, or
6 for engaging in a fraudulent practice;

7 (16) Impose and collect fines of up to \$5,000 against
8 individuals and up to \$10,000 or an amount equal to
9 the daily gross receipts, whichever is larger, against
10 licensees for each violation of this chapter, any
11 rules adopted by the commission, or for any other
12 action which, in the commission's discretion, is a
13 detriment or impediment to casino gaming operations;

14 (17) Hire employees to gather information, conduct
15 investigations, and carry out other tasks described in
16 this chapter;

17 (18) Establish minimum levels of insurance to be maintained
18 by licensees;

19 (19) Delegate the execution of any of its powers for the
20 purpose of administering and enforcing this chapter;
21 and



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1 (20) Adopt rules pursuant to chapter 91 to implement this
2 chapter. Rules adopted under this chapter shall not
3 be arbitrary, capricious, or contradictory to the
4 provisions of chapter 91. Rules may include but need
5 not be limited to rules that:

6 (A) Govern, restrict, approve, or regulate the casino
7 gaming authorized in this chapter;

8 (B) Promote the safety, security, and integrity of
9 casino gaming authorized in this chapter;

10 (C) License and regulate, consistent with the
11 qualifications and standards set forth in this
12 chapter, persons participating in or involved
13 with casino gaming authorized in this chapter;
14 and

15 (D) Take any other action which may be reasonable or
16 appropriate to enforce this chapter and rules
17 adopted under this chapter.

18 This section is not intended to limit warrantless inspections
19 except in accordance with constitutional requirements.

20 § -6 **Member, employee, or agent of commission; conduct**
21 **generally.** (a) By January 31 of each year, each member of the



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1 commission shall prepare and file with the commission, a
2 disclosure form in which the member:

3 (1) Affirms that the member or the member's spouse,
4 parent, child, or child's spouse is not a member of
5 the board of directors of, financially interested in,
6 or employed by, a licensee or applicant;

7 (2) Affirms that the member continues to meet all other
8 criteria for commission membership under this chapter
9 or the rules adopted by the commission;

10 (3) Discloses any legal or beneficial interest in any real
11 property that is or may be directly or indirectly
12 involved with gaming operations authorized by this
13 chapter; and

14 (4) Discloses any other information that may be required
15 to ensure that the integrity of the commission and its
16 work is maintained.

17 (b) By January 31 of each year, each employee of the
18 commission shall prepare and file with the commission a
19 disclosure form in which the employee:

20 (1) Affirms the absence of financial interests prohibited
21 by this chapter;



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1 (2) Discloses any legal or beneficial interests in any
2 real property that is or that may be directly or
3 indirectly involved with gaming or gaming operations
4 authorized by this chapter;

5 (3) Discloses whether the employee or the employee's
6 spouse, parent, child, or child's spouse is
7 financially interested in or employed by a supplier
8 licensee, or an applicant for a supplier's license,
9 under this chapter; and

10 (4) Discloses any other information that may be required
11 to ensure that the integrity of the commission and its
12 work is maintained.

13 (c) A member, employee, or agent of the commission who
14 becomes aware that the member, employee, or agent of the
15 commission or their spouse, parent, or child is a member of the
16 board of directors of, financially interested in, or employed by
17 a licensee or an applicant shall immediately provide detailed
18 written notice to the chairperson.

19 (d) A member, employee, or agent of the commission who has
20 been indicted, charged with, convicted of, has pled guilty or
21 nolo contendere to, or has forfeited bail for:



1 (1) A misdemeanor involving gambling, dishonesty, theft,
2 or fraud;

3 (2) A local ordinance in any state involving gambling,
4 dishonesty, theft, or fraud that substantially
5 corresponds to a misdemeanor in that state; or

6 (3) A felony under Hawaii law, the laws of any other
7 state, or the laws of the United States, or any other
8 jurisdiction;

9 shall immediately provide detailed written notice of the
10 conviction or charge to the chairperson.

11 (e) Any member, employee, or agent of the commission who
12 is negotiating for, or acquires by any means, any interest in
13 any person who is a licensee or an applicant, or is affiliated
14 with such a person, shall immediately provide written notice of
15 the details of the interest to the chairperson. The member,
16 employee, or agent of the commission shall not act on behalf of
17 the commission with respect to that person.

18 (f) A member, employee, or agent of the commission shall
19 not enter into any negotiations for employment with any person
20 or affiliate of any person who is a licensee or an affiliate and
21 shall immediately provide written notice of the details of any
22 such negotiations or discussions to the chairperson. The



1 member, employee, or agent of the commission shall not take any
2 action on behalf of the commission with respect to that person.

3 (g) Any member, employee, or agent of the commission who
4 receives an invitation, written or oral, to initiate a
5 discussion concerning employment or the possibility of
6 employment with a person, or affiliate of a person, who is a
7 licensee or an applicant shall immediately report the invitation
8 to the chairperson. The member, employee, or agent of the
9 commission shall not take action on behalf of the commission
10 with respect to that person.

11 (h) A licensee or applicant shall not knowingly initiate a
12 negotiation for, or discussion of, employment with a member,
13 employee, or agent of the commission. A licensee or applicant
14 who initiates a negotiation or discussion about employment shall
15 immediately provide written notice of the details of the
16 negotiation or discussion to the chairperson as soon as that
17 person becomes aware that the negotiation or discussion has been
18 initiated with a member, employee, or agent of the commission.

19 (i) A member, employee, or agent of the commission, or
20 former member, employee, or agent of the commission, shall not
21 disseminate or otherwise disclose any material or information in
22 the possession of the commission that the commission considers



1 confidential, unless specifically authorized to do so by the
2 chairperson or the commission.

3 (j) A member, employee, or agent of the commission or a
4 parent, spouse, sibling, or child of a member, employee, or
5 agent of the commission shall not accept any gift, gratuity,
6 compensation, travel, lodging, or anything of value, directly or
7 indirectly from any licensee, applicant, or any affiliate or
8 representative of an applicant or licensee, unless the
9 acceptance conforms to a written policy or directive issued by
10 the chairperson or the commission. Any member, employee, or
11 agent of the commission who is offered or receives any gift,
12 gratuity, compensation, travel, lodging, or anything of value,
13 directly or indirectly, from any licensee or any applicant or
14 affiliate or representative of an applicant or licensee shall
15 immediately provide written notification of the details to the
16 chairperson.

17 (k) A licensee or applicant, or affiliate or
18 representative of an applicant or licensee, shall not, directly
19 or indirectly, knowingly give or offer to give any gift,
20 gratuity, compensation, travel, lodging, or anything of value to
21 any member, employee, or agent of the commission which the



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1 member, employee, or agent of the commission is prohibited from
2 accepting under subsection (j).

3 (l) A member, employee, or agent of the commission shall
4 not engage in any conduct that constitutes a conflict of
5 interest, and shall immediately advise the chairperson in
6 writing of the details of any incident or circumstances that
7 would present the existence of a conflict of interest with
8 respect to the performance of the commission-related work or
9 duty of the member, employee, or agent of the commission.

10 (m) A member, employee, or agent of the commission who is
11 approached and offered a bribe in violation of this chapter
12 shall immediately provide a written account of the details of
13 the incident to the chairperson and to a law enforcement officer
14 of a law enforcement agency having jurisdiction.

15 (n) A member, employee, or agent of the commission shall
16 disclose their past involvement with any casino interest in the
17 past five years and shall not engage in political activity or
18 politically-related activity during the duration of their
19 appointment or employment.

20 (o) A former member, employee, or agent of the commission
21 may appear before the commission as a fact witness about matters
22 or actions handled by the member, employee, or agent during the



1 person's tenure as a member, employee, or agent of the
2 commission. The member, employee, or agent of the commission
3 shall not receive compensation for such an appearance other than
4 a standard witness fee and reimbursement for travel expenses as
5 established by statute or court rule.

6 (p) A licensee or applicant or any affiliate or
7 representative of an applicant or licensee shall not engage in
8 ex parte communications concerning a pending application,
9 license, or enforcement action with members of the commission.
10 A member of the commission shall not engage in any ex parte
11 communications with a licensee or an applicant, or with any
12 affiliate or representative of an applicant or licensee,
13 concerning a pending application, license, or enforcement
14 action.

15 (q) Any commission member, licensee, or applicant or
16 affiliate or representative of a commission member, licensee, or
17 applicant who receives any ex parte communication in violation
18 of subsection (p), or who is aware of an attempted communication
19 in violation of subsection (p), shall immediately report details
20 of the communication or attempted communication in writing to
21 the chairperson.



1 (r) Any member of the commission who receives an ex parte
2 communication which attempts to influence that member's official
3 action shall disclose the source and content of the
4 communication to the chairperson. The chairperson may
5 investigate or initiate an investigation of the matter with the
6 assistance of the attorney general and law enforcement to
7 determine if the communication violates subsection (p) or (q) or
8 other state law. The disclosure under this section and the
9 investigation shall remain confidential. Following an
10 investigation, the chairperson shall advise the governor or the
11 commission, or both, of the results of the investigation and may
12 recommend action, as the chairperson considers appropriate.

13 (s) A new or current employee or agent of the commission
14 shall obtain written permission from the executive director
15 before continuing outside employment held at the time the
16 employee begins to work for the commission. Permission shall be
17 denied, or permission previously granted shall be revoked, if
18 the nature of the work is considered to, or does create, a
19 possible conflict of interest or otherwise interferes with the
20 duties of the employee or agent for the commission.

21 (t) An employee or agent of the commission granted
22 permission for outside employment shall not conduct any business



1 or perform any activities, including solicitation, related to
2 outside employment on premises used by the commission or during
3 the employee's working hours for the commission.

4 (u) Whenever the chairperson is required to file
5 disclosure forms or report in writing the details of any
6 incident or circumstance pursuant to this section, the
7 chairperson shall file the forms or reports to the commission.

8 (v) The chairperson shall report any action the
9 chairperson has taken or contemplates taking under this section,
10 with respect to an employee or agent or former employee or
11 former agent, to the commission at the next meeting of the
12 commission. The commission may direct the executive director to
13 take additional or different action.

14 (w) No member, employee, or agent of the commission may
15 participate in or wager on any gambling game conducted by any
16 licensee or applicant or any affiliate of an applicant or
17 licensee in the State or in any other jurisdiction, except as
18 follows:

19 (1) A member, employee, or agent of the commission may
20 participate in and wager on a gambling game conducted
21 by a licensee under this chapter, to the extent
22 authorized by the chairperson or commission as part of



1 the person's surveillance, security, or other official
2 duties for the commission; and

3 (2) A member, employee, or agent of the commission shall
4 advise the chairperson at least twenty-four hours in
5 advance if they plan to be present in a casino in this
6 State, or in another jurisdiction, operated by a
7 licensee, applicant, or affiliate of a licensee or
8 applicant, outside the scope of their official duties
9 for the commission. .

10 (x) Violation of this section by a licensee, applicant, or
11 affiliate or representative of a licensee or applicant, may
12 result in denial of the application of licensure or revocation
13 or suspension of license or other disciplinary action by the
14 commission.

15 (y) Violation of this section by a member of the
16 commission may result in disqualification or constitute cause
17 for removal under section -3(d) or other disciplinary action
18 as determined by the commission.

19 (z) A violation of this section by an employee or agent of
20 the commission shall not result in termination of employment or
21 require other disciplinary action if the commission determines



1 that the conduct involved does not violate the purpose of this
2 chapter. Employment shall be terminated for the following:

3 (1) If the employee or agent is a spouse, parent, child,
4 or spouse of a child of a commission member; or

5 (2) If, after being offered employment or having begun
6 employment with the commission, the employee or agent
7 intentionally acquires a financial interest in a
8 licensee or an applicant, or affiliate or
9 representative of a licensee or applicant.

10 If a financial interest in a licensee or an applicant, or
11 affiliate or representative of a licensee or applicant, is
12 acquired by:

13 (1) An employee or agent that has been offered employment
14 with the commission;

15 (2) An employee of the commission; or

16 (3) The employee's or agent's spouse, parent, or child;

17 through no intentional action of the employee or agent, the
18 employee or agent shall have up to thirty days to divest or
19 terminate the financial interest. Employment may be terminated
20 if the interest has not been divested after thirty days.

21 (aa) Violation of this section does not create a civil
22 cause of action.



1 (bb) As used in this section:

2 "Outside employment" includes the following:

3 (1) Operation of a proprietorship;

4 (2) Participation in a partnership or group business
5 enterprise; or

6 (3) Performance as a director or corporate officer of any
7 for-profit corporation, or banking or credit
8 institution.

9 "Political activity" or "politically related activity"
10 includes any of the following:

11 (1) Using the person's official authority or influence for
12 the purpose of interfering with or affecting the
13 result of an election;

14 (2) Knowingly soliciting, accepting, or receiving
15 political contributions from any person;

16 (3) Running for nomination or as a candidate for election
17 to a partisan political office; or

18 (4) Knowingly soliciting or discouraging the participation
19 in any political activity of any person who is:

20 (A) Applying for any compensation, grant, contract,
21 ruling, license, permit, or certificate pending
22 before the commission; or



1 (B) The subject of or a participant in an ongoing
2 audit, investigation, or enforcement action being
3 carried out by the commission.

4 § -7 **Authorization of limited gaming.** (a) Casino
5 gaming shall only be permitted in casino facilities
6 on the island of Oahu. Any application for a casino license to
7 operate a casino facility on Oahu shall include a casino
8 facility development plan for the casino facility.

9 (b) The commission shall adopt the necessary rules and
10 make applications available for a casino license to operate a
11 casino facility within one hundred and twenty days of its
12 appointment. Applications for casino licenses shall be
13 submitted to the commission no later than sixty days after the
14 date applications are made available. The commission shall
15 select applicants who best meet all of the criteria pursuant to
16 section -9 no later than ninety days after the final date
17 applications must be submitted to the commission. If a selected
18 applicant meets all the requirements of this chapter, the
19 commission shall issue a license to the applicant within one
20 hundred and twenty days after the date the applicant is
21 selected.



1 § -8 **Application for casino license.** (a) A person,
2 including qualifiers, may apply to the commission for a casino
3 license to conduct a casino gaming operation. The application
4 shall be made under oath on forms provided by the commission and
5 shall contain information as prescribed by the commission,
6 including all of the following:

- 7 (1) The name, business address, telephone number, social
8 security number and, where applicable, the federal tax
9 identification number of the applicant and every
10 qualifier;
- 11 (2) An identification of any business, including, if
12 applicable, the state of incorporation or
13 registration, in which the applicant or qualifier has
14 an equity interest of more than five per cent. If the
15 applicant or qualifier is a corporation, partnership
16 or other business entity, the applicant or qualifier
17 shall identify any other corporation, partnership, or
18 other business entity in which it has an equity
19 interest of more than five per cent, including, if
20 applicable, the state of incorporation or
21 registration. The applicant or qualifier may comply
22 with this paragraph by filing a copy of the



1 applicant's or qualifier's registration with the
2 securities exchange commission if the registration
3 contains the information required by this paragraph;

4 (3) Whether the applicant or qualifier has been indicted,
5 convicted, has pled guilty or nolo contendere, or
6 forfeited bail for a felony within the last ten years
7 or a misdemeanor involving gambling, theft, or fraud
8 within the last ten years, not including traffic
9 violations, and including the date, the name and
10 location of the court, arresting agency, prosecuting
11 agency, the case caption, the docket number, the
12 offense, the disposition, and the location and length
13 of incarceration;

14 (4) Whether the applicant or qualifier has ever been
15 granted any license or certificate issued by a
16 licensing authority in the State, or any other
17 jurisdiction, that has been restricted, suspended,
18 revoked, or not renewed and a statement describing the
19 facts and circumstances concerning the application,
20 denial, restriction, suspension, revocation, or
21 nonrenewal, including the licensing authority, the



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- 1 date each action was taken, and the reason for each
2 action;
- 3 (5) Whether the applicant or qualifier has within the last
4 ten years filed or had filed against it a civil or
5 administrative action or proceeding in bankruptcy or
6 has within the last ten years been involved in any
7 formal process to adjust, defer, suspend, or otherwise
8 address the payment of any debt, including the date of
9 filing, the name and location of the court, the case
10 caption, the docket number, and the disposition;
- 11 (6) Whether the applicant or qualifier has within the last
12 five tax years failed to pay any final amount of tax
13 due and payable under federal, state, or local law,
14 after exhaustion of all inter-agency appeals
15 processes, including the amount, type of tax, the
16 taxing, and time periods involved;
- 17 (7) A statement listing the names and titles of all public
18 officials or officers of any unit of state government
19 or local government in the jurisdiction in which the
20 gaming facility is to be located, and the spouses,
21 parents, and children of those public officials or
22 officers who, directly or indirectly, own any



1 financial interest in, have any beneficial interest
2 in, are the creditors of or hold any debt instrument
3 issued by, or hold or have an interest in any
4 contractual or service relationship with, the
5 applicant or a qualifier. As used in this paragraph,
6 "public official" or "officer" does not include a
7 person who would be listed solely because of the
8 person's state or federal military service;

9 (8) The name and business telephone number of any
10 attorney, counsel, or any other person representing an
11 applicant or a qualifier in matters before the
12 commission; and

13 (9) For the applicant only, a description of any proposed
14 or approved casino gaming facility, including the
15 economic benefit to the community, anticipated or
16 actual number of employees, any statement from an
17 applicant regarding compliance with federal and state
18 affirmative action guidelines, projected or actual
19 admissions, projected or actual gross receipts, and
20 scientific market research.

21 (b) Information provided on the application shall be used
22 as the basis for a thorough background investigation that the



1 commission shall conduct with respect to each applicant and
2 qualifier. An incomplete application shall be cause for denial
3 of a license by the commission.

4 (c) Applicants shall submit with their application a plan
5 for training residents of the State for jobs that are available
6 at a casino facility. The plan shall take into consideration
7 the need to provide training to low-income persons so as to
8 allow such persons to qualify for jobs that will be created in
9 the casino facilities.

10 (d) Each applicant and qualifier shall disclose the
11 identity of every person, association, trust, or corporation
12 having a greater than five per cent direct or indirect financial
13 interest in the casino gaming operation for which the license is
14 sought. If the disclosed entity is a trust, the application
15 shall disclose the names and addresses of the beneficiaries; if
16 a corporation, the names and addresses of all stockholders and
17 directors; if a partnership, the names and addresses of all
18 partners, both general and limited.

19 (e) An application fee of \$50,000 shall be paid by an
20 applicant at the time of filing to defray the costs associated
21 with an applicant and qualifier's background investigation
22 conducted by the commission. If the costs of the investigation



1 exceed \$50,000, the applicant shall pay the additional amount to
2 the commission. If the costs of the investigation are less than
3 \$50,000, the applicant shall receive a refund of the remaining
4 amount. All information, records, interviews, reports,
5 statements, memoranda, or other data supplied to or used by the
6 commission in the course of its review or investigation of an
7 application for a license shall be confidential, used only for
8 the purpose of evaluating an applicant, and exempt from public
9 disclosure required by chapter 92F, and shall not be admissible
10 as evidence, nor discoverable in any action of any kind in any
11 court or before any tribunal, commission, agency, or person,
12 except for any action deemed necessary by the commission.

13 (f) An applicant shall be ineligible to receive an
14 operator's license if:

- 15 (1) The applicant has been convicted of a felony under the
16 laws of this State, any other state, or the United
17 States;
- 18 (2) The person has been convicted of any violation under
19 part III, chapter 712, or substantially similar laws
20 of another jurisdiction;



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- 1 (3) The person has knowingly submitted an application for
2 a license under this chapter that contains false
3 information;
- 4 (4) The person is a member of the commission;
- 5 (5) The firm or corporation applying for a license employs
6 a person described in paragraph (1), (2), (3), or (4)
7 who participates in the management or operation of
8 gaming operations authorized under this chapter;
- 9 (6) A license of the applicant issued under this chapter,
10 or a license to own or operate gaming facilities in
11 any other jurisdiction, has been revoked; or
- 12 (7) The applicant or qualifier owns any interest in,
13 operates or manages, has a contractual relationship
14 with, or is an affiliate of, a hotel, motel, or resort
15 located within thirty miles of a casino facility site
16 that may be developed under this chapter. The
17 relationship between the applicant or any of its
18 qualifiers and the hotel, motel, or resort shall be
19 determined at the time of licensure, thus allowing any
20 applicants or their qualifiers to divest themselves of
21 such interests between the time of application and the
22 time when the license is approved.



1 § -9 **Criteria for award of a casino license.** (a) The
2 commission shall issue a license to operate a casino facility to
3 an applicant who meets all of the following criteria:

4 (1) The applicant has submitted a casino facility
5 development plan for the casino facility that will
6 increase tourism, generating jobs, and provide revenue
7 to the local economy;

8 (2) The applicant has provided financial data and other
9 facts showing that the applicant has the financial
10 resources and ability to construct the casino
11 facility;

12 (3) The applicant has the financial ability to purchase
13 and maintain adequate liability and casualty insurance
14 and to provide an adequate surety bond;

15 (4) The applicant has provided data on the sources and the
16 total amount of capitalization to develop, construct,
17 maintain, and operate the proposed casino facility;

18 (5) The applicant has adequate capitalization to develop,
19 construct, maintain, and operate, for the duration of
20 a license, the proposed casino facility in accordance
21 with the requirements of this chapter and rules
22 adopted by the commission and to responsibly pay off



1 its secured and unsecured debts in accordance with its
2 financing agreement and other contractual obligations;

3 (6) The extent to which the applicant or any of its
4 qualifiers demonstrate that they have assisted the
5 State in developing casino gaming through their
6 commitment of resources to support, promote, and
7 establish casino gaming in the State. Expenditures of
8 time, money, and effort shall all be considered in
9 connection with this criterion. The timing of
10 participation shall further influence this criterion,
11 with early participation and contribution to the
12 casino development program receiving more favorable
13 consideration;

14 (7) The extent to which the applicant or any of its
15 qualifiers demonstrate that they have at least four
16 years of experience in helping to revitalize an urban
17 area by successfully planning, developing, and opening
18 a land-based casino in any state that previously did
19 not permit casino gaming. The experience in planning,
20 developing, and opening a land-based casino in an
21 urban area in the past five years shall receive more
22 favorable consideration for this criterion. For



1 purposes of this paragraph, "urban area" means a
2 jurisdiction with a population of at least seven
3 hundred fifty thousand;

4 (8) Whether the applicant or any of its qualifiers has
5 been indicted, convicted, has pled guilty or nolo
6 contendere, or has forfeited bail for a felony within
7 the last ten years or a misdemeanor involving
8 gambling, theft, or fraud within the last ten years,
9 not including traffic violations;

10 (9) Whether the applicant or any of its qualifiers has
11 filed, or had filed against it, within the last ten
12 years a proceeding for bankruptcy or has within the
13 last ten years been involved in any formal process to
14 adjust, defer, suspend, or otherwise address the
15 payment of any debt;

16 (10) Whether an applicant or any of its qualifiers has
17 within the last five tax years failed to pay any final
18 amount of tax due and payable under federal, state, or
19 local law, after exhaustion of all inter-agency
20 appeals processes; and

21 (11) Whether the applicant meets other standards for the
22 issuance of a casino license that the commission may



1 have adopted by rule. The rules adopted hereunder
2 shall not be arbitrary, capricious, or contradictory
3 to the expressed provisions of this chapter and shall
4 further define and clarify the above listed conditions
5 rather than create new conditions for licensure.

6 (b) To demonstrate financial ability, the applicant may
7 include the economic resources of the person or persons who will
8 actually operate the casino facility and any qualifiers.

9 (c) Each applicant and qualifier shall submit with the
10 application, on forms provided by the commission, two sets of
11 the applicant's fingerprints.

12 (d) The commission may revoke the license if the licensee
13 fails to begin regular casino gaming operations within twelve
14 months of receipt of the commission's approval of the
15 application or twelve months after a certificate of occupancy
16 for the casino facility is first issued, whichever is later,
17 upon a finding by the commission that license revocation is in
18 the best interest of the State.

19 (e) The commission shall establish a process to facilitate
20 and expedite the approval of the necessary licenses and permits.
21 The commission may establish its own procedures for the issuance
22 of liquor licenses for any holder of an operator's license under



1 this chapter; provided that all state laws and county ordinances
2 relating to liquor are met.

3 (f) Nothing in this chapter shall be interpreted to
4 prohibit a licensed owner from operating a school for the
5 training of any occupation licensee.

6 § -10 **Bond of licensee.** Before a casino license is
7 issued, the licensee shall file a bond in the sum of \$200,000
8 with the department. The bond shall be used to guarantee that
9 the licensee faithfully makes the payments, keeps books and
10 records, makes reports, and conducts games of chance in
11 conformity with this chapter and rules adopted by the
12 commission. The bond shall not be canceled by a surety on less
13 than thirty days' notice in writing to the commission. If a
14 bond is canceled and the licensee fails to file a new bond with
15 the commission in the required amount on or before the effective
16 date of cancellation, the licensee's license shall be revoked.
17 The total and aggregate liability of the surety on the bond
18 shall be limited to the amount specified in the bond.

19 § -11 **Application deficiency.** (a) If in the review of
20 an application submitted under this chapter the executive
21 director identifies an apparent deficiency that, if true, would
22 require denial of the license or the disqualification of a



1 qualifier, the executive director shall notify the affected
2 applicant or qualifier in writing of the apparent deficiency.
3 The applicant or qualifier may then request an informal
4 conference with the executive director to discuss the factual
5 basis of the apparent deficiency.

6 (b) The executive director shall provide the applicant or
7 qualifier a reasonable period of time to correct the apparent
8 deficiency and, if the apparent deficiency is not corrected
9 within the reasonable time period, the executive director shall
10 find that the apparent deficiency has not been corrected.
11 Following this finding, the affected applicant or qualifier
12 shall have an opportunity to appeal the executive director's
13 finding of an apparent deficiency to the commission. The
14 commission shall conduct an investigative hearing, pursuant to
15 section -16 and in accordance with rules adopted under this
16 chapter, to determine whether there is sufficient evidence to
17 support an apparent deficiency finding. At the hearing, the
18 burden of proof shall be on the executive director to
19 demonstrate that the finding of an apparent deficiency is
20 supported by law and facts. Any finding by the commission about
21 a qualifier's apparent deficiency shall not constitute a final
22 determination by the commission as to the suitability of the



1 applicant to hold a license, or the suitability of a qualifier
2 to hold an ownership interest in a casino applicant.

3 (c) At any time prior to a finding by the commission that
4 a qualifier is unsuitable to hold an ownership interest in a
5 casino applicant, a qualifier shall have the ability to sell its
6 ownership interest in the casino applicant to the casino
7 applicant, another qualifier, or a third party.

8 (d) A qualifier who has been issued an apparent deficiency
9 shall have the right to request that the commission expand the
10 apparent deficiency hearing under this section to include a
11 determination of the qualifier's suitability to hold an
12 ownership interest in the casino license applicant. If such a
13 request is made, the commission shall determine the suitability
14 of the affected qualifier separate from the suitability of the
15 casino applicant and any of its other qualifiers. A request by
16 a qualifier for an extended hearing pursuant to this section
17 shall not prevent the commission from issuing a license to the
18 applicant. Until the commission determines that a qualifier
19 under this section is suitable to hold an ownership interest in
20 the casino applicant, the casino applicant or licensee shall not
21 do any of the following:



1 (1) Make any direct or indirect payments or distributions
2 of revenue or other benefits to the qualifier that are
3 related in any way to the qualifier's interest in the
4 applicant; and

5 (2) Pay any direct or indirect compensation to the
6 qualifier for services rendered to the applicant,
7 unless specifically approved and authorized by the
8 commission.

9 § -12 **Institutional investor.** (a) Unless the
10 commission determines that an institutional investor is
11 unqualified, an institutional investor holding less than ten per
12 cent of the equity securities or ten per cent of the debt
13 securities of a casino licensee's affiliate or affiliated
14 company that is related in any way to the financing of the
15 casino licensee, shall be granted a waiver of the eligibility
16 and suitability requirements if:

17 (1) The securities represent a percentage of the
18 outstanding debt of the affiliate or affiliated
19 company not exceeding twenty per cent, or a percentage
20 of any issue of the outstanding debt of the affiliate
21 or affiliated company not exceeding fifty per cent;



1 (2) The securities are those of a publicly traded
2 corporation and its holdings of such securities were
3 purchased for investment purposes only; and

4 (3) Upon request by the commission, the institutional
5 investor files with the commission a certified
6 statement that it has no intention of influencing or
7 affecting the affairs of the issuer, the casino
8 licensee, or its affiliate or affiliated company.

9 (b) The commission may grant a waiver under this section
10 to an institutional investor holding a higher percentage of
11 securities than allowed in subsection (a), upon a showing of
12 good cause and if the conditions specified in subsection (a) are
13 met.

14 (c) An institutional investor granted a waiver under this
15 section that subsequently intends to influence or affect the
16 affairs of the issuer shall provide notice to the commission and
17 file an application for a determination of eligibility and
18 suitability before taking any action that may influence or
19 affect the affairs of the issuer.

20 (d) Notwithstanding any provisions of this chapter, an
21 institutional investor may vote on all matters that are put to
22 the vote of the outstanding security holders of the issuer.



1 (e) If an institutional investor changes its investment
2 intent or if the commission finds that the institutional
3 investor is unqualified, no action other than divestiture of the
4 security holdings shall be taken until there has been compliance
5 with this chapter.

6 (f) The casino licensee or an affiliate or affiliated
7 company of the casino licensee shall immediately notify the
8 commission of any information concerning an institutional
9 investor holding its equity or debt securities that may affect
10 the eligibility and suitability of the institutional investor
11 for a waiver under this section.

12 (g) If the commission finds that an institutional
13 investor, holding any security of an affiliate or affiliated
14 company of a casino licensee that is related in any way to the
15 financing of the casino licensee, fails to comply with the
16 requirements of this section, or if at any time the commission
17 finds that, by reason of the extent or nature of its holdings an
18 institutional investor is in a position to exercise a
19 substantial impact upon the controlling interests of a casino
20 licensee, the commission may take any necessary action to
21 protect the public interest, including requiring the
22 institutional investor to satisfy the eligibility and



1 suitability requirements under sections -8, -9, and
2 -10.

3 § -13 **Supplier's licenses.** (a) No person shall furnish
4 in excess of \$500,000 worth of equipment, devices, or supplies
5 to a licensed casino gaming operation under this chapter unless
6 the person has first obtained a supplier's license pursuant to
7 this section. The commission may issue a supplier's license to
8 any person, firm, or corporation who pays a nonrefundable
9 application fee as set by the commission upon a determination by
10 the commission that the applicant is eligible for a supplier's
11 license and upon payment by the applicant of a \$5,000 license
12 fee. Supplier's licenses shall be renewable annually upon
13 payment of the \$5,000 annual license fee and a determination by
14 the commission that the licensee continues to meet all of the
15 requirements of this chapter.

16 (b) The holder of a supplier's license may sell or lease,
17 or contract to sell or lease, gaming equipment and supplies to
18 any licensee involved in the ownership or management of casino
19 gaming operations.

20 (c) Casino gaming supplies and equipment shall not be
21 distributed unless supplies and equipment conform to standards
22 adopted by rules of the commission.



1 (d) A person, firm, or corporation shall be ineligible to
2 receive a supplier's license if:

3 (1) The person has been convicted of a felony under the
4 laws of this State, any other state, or the United
5 States;

6 (2) The person has been convicted of any violation under
7 part III, chapter 712, or substantially similar laws
8 of another jurisdiction;

9 (3) The person has knowingly submitted an application for
10 a license under this chapter that contains false
11 information;

12 (4) The person is a member of the commission;

13 (5) The firm or corporation is one in which a person
14 defined in paragraph (1), (2), (3), or (4) is an
15 officer, director, or managerial employee;

16 (6) The firm or corporation employs a person, defined in
17 paragraph (1), (2), (3), or (4), that participates in
18 the management or operation of casino gaming
19 authorized under this chapter; or

20 (7) The license of the person, firm, or corporation issued
21 under this chapter, or a license to own or operate



1 casino gaming facilities in any other jurisdiction,
2 has been revoked.

3 (e) A supplier shall:

4 (1) Furnish to the commission a list of all equipment,
5 devices, and supplies offered for sale or lease in
6 connection with casino games authorized under this
7 chapter;

8 (2) Keep books and records for the furnishing of
9 equipment, devices, and supplies to casino gaming
10 operations separate and distinct from any other
11 business that the supplier might operate;

12 (3) File quarterly returns with the commission listing all
13 sales and leases;

14 (4) Permanently affix its name to all its equipment,
15 devices, and supplies, used for casino gaming
16 operations; and

17 (5) File an annual report listing its inventories of
18 casino gaming equipment, devices, and supplies.

19 (f) Any person who knowingly makes a false statement on an
20 application is guilty of a petty misdemeanor.

21 (g) Any casino gaming equipment, devices, or supplies
22 provided by any licensed supplier may either be repaired in the



1 casino facility or be removed from the casino facility to a
2 facility owned by the holder of an operator's license for
3 repair. Any supplier's equipment, devices, and supplies that
4 are used by any person in an unauthorized gaming operation shall
5 be forfeited to the county.

6 **§ -14 Occupational licenses.** (a) The commission may
7 issue an occupational license to an applicant upon:

8 (1) The payment of a nonrefundable application fee set by
9 the commission;

10 (2) A determination by the commission that the applicant
11 is eligible for an occupational license; and

12 (3) Payment of an annual license fee in an amount set by
13 the commission.

14 (b) To be eligible for an occupational license, an
15 applicant shall:

16 (1) Be at least twenty-one years of age if the applicant
17 performs any function involved in casino gaming by
18 patrons. Any applicant seeking an occupational
19 license for a non-gaming function shall be at least
20 eighteen years of age;



1 (2) Not have been convicted of a felony offense in any
2 jurisdiction or a crime involving dishonesty or moral
3 turpitude;

4 (3) Have demonstrated a level of skill or knowledge that
5 the commission determines to be necessary to operate
6 casino games in a casino facility; and

7 (4) Have met standards for the holding of an occupational
8 license as provided in rules adopted by the
9 commission, including background inquiries and other
10 requirements similar to those for an operator's
11 license.

12 (c) Each application for an occupational license shall be
13 on forms prescribed by the commission and shall contain all
14 information required by the commission. The applicant shall set
15 forth in the application whether the applicant:

16 (1) Has been issued prior gaming-related licenses in any
17 jurisdiction;

18 (2) Has been licensed in any other jurisdiction under any
19 other name, and if so, the name and the applicant's
20 age at the time; and



1 (3) Has had a permit or license issued from any other
2 jurisdiction suspended, restricted, or revoked, and if
3 so, for what period of time.

4 (d) Each applicant shall submit with the application two
5 sets of the applicant's fingerprints. The commission shall
6 charge each applicant a fee to defray the costs associated with
7 the search and classification of fingerprints obtained by the
8 commission with respect to the application.

9 (e) The commission may refuse to grant an occupational
10 license to any person:

11 (1) Who is unqualified to perform the duties required of
12 the applicant;

13 (2) Who fails to disclose or states falsely any
14 information called for in the application;

15 (3) Who has been found guilty of a violation of this
16 chapter or whose prior casino gaming related license
17 or application has been suspended, restricted,
18 revoked, or denied for just cause in any other
19 jurisdiction; or

20 (4) For any other just cause.

21 (f) The commission may suspend, revoke, or restrict any
22 occupation licensee:



- 1 (1) For any violation of this chapter;
- 2 (2) For any violation of the rules of the commission;
- 3 (3) For any cause which, if known to the commission, would
- 4 have disqualified the applicant from receiving a
- 5 license;
- 6 (4) For default in the payment of any obligation or debt
- 7 due to the State or the county; or
- 8 (5) For any other just cause.

9 (g) A person who knowingly makes a false statement on an
10 application is guilty of a petty misdemeanor.

11 (h) Any license issued pursuant to this section shall be
12 valid for a period of one year from the date of issuance and
13 shall be renewable annually upon payment of the annual license
14 fee and a determination by the commission that the licensee
15 continues to meet all of the requirements of this chapter.

16 (i) Any training provided for occupational licensees may
17 be conducted either in a licensed casino facility or at a school
18 with which a licensed owner has entered into an agreement.

19 § -15 **Annual report.** The commission shall file a
20 written annual report with the governor and the legislature at
21 least sixty days prior to the close of each fiscal year and



1 shall file any additional reports that the governor or the
2 legislature requests. The annual report shall include:

- 3 (1) A statement of receipts and disbursements related to
4 casino gaming pursuant to this chapter;
- 5 (2) Actions taken by the commission; and
- 6 (3) Any additional information and recommendations that
7 the commission may deem valuable or which the governor
8 or the legislature may request.

9 **§ -16 Hearings by the commission.** (a) Upon order of
10 the commission, one of the commission members or a hearings
11 officer designated by the commission may conduct any hearing
12 provided for under this chapter related to casino gaming or by
13 commission rule, and may recommend findings and decisions to the
14 commission. The record made at the time of the hearing shall be
15 reviewed by the commission, or a majority thereof, and the
16 findings and decisions of the majority of the commission shall
17 constitute the order of the commission in that case.

18 (b) Any party aggrieved by an action of the commission
19 denying, suspending, revoking, restricting, or refusing to renew
20 a license under this chapter may request a hearing before the
21 commission. A request for a hearing shall be made to the
22 commission in writing within five days after service of notice



1 of the action of the commission. Notice of the actions of the
2 commission shall be served either by personal delivery or by
3 certified mail, postage prepaid, to the aggrieved party. Notice
4 served by certified mail shall be deemed complete on the
5 business day following the date of the mailing. The commission
6 shall conduct all requested hearings promptly and in reasonable
7 order.

8 § -17 **Conduct of casino gaming.** Casino gaming may be
9 conducted by a licensed operator, subject to the following
10 standards:

- 11 (1) Minimum and maximum wagers on games shall be set by
12 the licensee;
- 13 (2) Agents of the commission may enter and inspect any
14 casino facility at any time for the purpose of
15 determining compliance with this chapter;
- 16 (3) Employees of the commission shall have the right to be
17 present in a casino facility or on adjacent facilities
18 under the control of the licensee;
- 19 (4) Gaming equipment and supplies customarily used in
20 conducting casino gaming shall be purchased or leased
21 only from suppliers licensed under this chapter;



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- 1 (5) Persons licensed under this chapter shall permit no
2 form of wagering on games except as permitted by this
3 chapter;
- 4 (6) Wagers may be received only from a person present in a
5 licensed casino facility. No person present in a
6 licensed casino facility shall place or attempt to
7 place a wager on behalf of another person who is not
8 present in the casino facility;
- 9 (7) Wagering shall not be conducted with money or other
10 negotiable currency, except for wagering on slot
11 machines;
- 12 (8) A person under age twenty-one shall not be permitted
13 in an area of a casino facility where casino gaming is
14 being conducted, except for a person at least eighteen
15 years of age who is an employee of the casino
16 facility. No employee under age twenty-one shall
17 perform any function involved in casino gaming by
18 patrons. No person under age twenty-one shall be
19 permitted to make a wager under this chapter;
- 20 (9) All tokens, chips, or electronic cards used to make
21 wagers shall only be purchased from a licensed owner
22 within the casino facility. The tokens, chips, or



1 electronic cards may be purchased by means of an
2 agreement under which the owner extends credit to the
3 patron. The tokens, chips, or electronic cards shall
4 be used while within a casino facility only for the
5 purpose of making wagers on authorized games; and

6 (10) In addition to the above, casino gaming shall be
7 conducted in accordance with all rules adopted by the
8 commission.

9 § -18 **Collection of amounts owing under credit**

10 **agreements.** Notwithstanding any other law to the contrary, a
11 licensee who extends credit to a casino gaming patron shall be
12 expressly authorized to institute a cause of action to collect
13 any amounts due and owing under the extension of credit, as well
14 as the operator's costs, expenses, and reasonable attorney's
15 fees incurred in collection.

16 § -19 **Wagering tax; rate.** A tax shall be imposed on the
17 gross receipts received from casino gaming authorized under this
18 chapter at the rate of ten per cent. One per cent of the tax
19 revenues shall be used by the commission for a compulsive
20 gamblers program required to be established pursuant to this
21 chapter and for public security at the gaming facilities. All
22 administrative expenses of the commission shall be paid from the



1 proceeds generated by this tax but shall not exceed one per cent
2 of the tax revenues.

3 **§ -20 The state gaming fund; disposition of taxes**

4 **collected.** There is established within the state treasury the
5 state gaming fund to be administered by the Hawaii gaming
6 control commission into which shall be deposited all fees,
7 taxes, and fines collected under this chapter. After payment of
8 expenses incurred for the administration and enforcement of this
9 chapter, five per cent of the revenues generated by gaming shall
10 be remitted by the Hawaii gaming control commission on a monthly
11 basis to the city and county of Honolulu to pay for the fixed
12 guideway transportation system on Oahu.

13 **§ -21 Legislative oversight.** (a) Beginning with the
14 fiscal year starting July 1, 2008, the auditor shall conduct a
15 biennial financial and social assessment of gaming operations.
16 In conducting the assessment, the auditor shall identify the
17 financial impacts of gaming on the state economy and the social
18 impacts of gaming upon the community. The auditor shall submit
19 a report of the findings and recommendations to the legislature
20 no later than twenty days prior to the convening of the next
21 regular session after the biennial assessment is completed.



1 (b) Beginning with the fiscal year starting July 1, 2008,
2 the auditor shall conduct a program and financial audit of the
3 Hawaii gaming commission. Thereafter, the auditor shall conduct
4 a program and financial audit every four years after the first
5 audit is completed.

6 § -22 **Compulsive gambler program.** The commission shall
7 create and implement a program to assist individuals who are
8 identified as compulsive gamblers."

9 SECTION 3. Section 92F-13, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§92F-13 Government records; exceptions to general rule.**

12 This part shall not require disclosure of:

- 13 (1) Government records which, if disclosed, would
14 constitute a clearly unwarranted invasion of personal
15 privacy;
- 16 (2) Government records pertaining to the prosecution or
17 defense of any judicial or quasi-judicial action to
18 which the State or any county is or may be a party, to
19 the extent that such records would not be
20 discoverable;



- 1 (3) Government records that, by their nature, must be
2 confidential in order for the government to avoid the
3 frustration of a legitimate government function;
- 4 (4) Government records which, pursuant to state or federal
5 law including an order of any state or federal court,
6 are protected from disclosure; [~~and~~]
- 7 (5) Inchoate and draft working papers of legislative
8 committees including budget worksheets and unfiled
9 committee reports; work product; records or
10 transcripts of an investigating committee of the
11 legislature which are closed by rules adopted pursuant
12 to section 21-4 and the personal files of members of
13 the legislature[~~-~~]; and
- 14 (6) Information, records, interviews, reports, statements,
15 memoranda, or other data supplied to or used by the
16 Hawaii gaming control commission pursuant to section
17 -8(e)."

18 SECTION 4. Section 437D-8.4, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) Notwithstanding any law to the contrary, a lessor may
21 visibly pass on to a lessee:



- 1 (1) The general excise tax attributable to the
2 transaction;
- 3 (2) The vehicle license and registration fee and weight
4 taxes, prorated at 1/365th of the annual vehicle
5 license and registration fee and weight taxes actually
6 paid on the particular vehicle being rented for each
7 full or partial twenty-four hour rental day that the
8 vehicle is rented; provided the total of all vehicle
9 license and registration fees charged to all lessees
10 shall not exceed the annual vehicle license and
11 registration fee actually paid for the particular
12 vehicle rented;
- 13 (3) The rental motor vehicle surcharge tax as provided in
14 section 251-2 attributable to the transaction;
- 15 ~~[(4) The county surcharge on state tax under section~~
16 ~~46-16.8; provided that the lessor itemizes the tax for~~
17 ~~the lessee;]~~ and
- 18 ~~[(5)]~~ (4) The rents or fees paid to the department of
19 transportation under concession contracts, negotiated
20 pursuant to chapter 102, or service permits, granted
21 pursuant to title 19, Hawaii Administrative Rules,
22 provided that:



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- 1 (A) The rents or fees are limited to amounts that can
- 2 be attributed to the proceeds of the particular
- 3 transaction;
- 4 (B) The rents or fees shall not exceed the lessor's
- 5 net payments to the department of transportation
- 6 made under concession contract or service permit;
- 7 (C) The lessor submits to the department of
- 8 transportation and the department of commerce and
- 9 consumer affairs a statement, verified by a
- 10 certified public accountant as correct, that
- 11 reports the amounts of the rents or fees paid to
- 12 the department of transportation pursuant to the
- 13 applicable concession contract or service permit:
- 14 (i) For all airport locations; and
- 15 (ii) For each airport location;
- 16 (D) The lessor submits to the department of
- 17 transportation and the department of commerce and
- 18 consumer affairs a statement, verified by a
- 19 certified public accountant as correct, that
- 20 reports the amounts charged to lessees:
- 21 (i) For all airport locations;
- 22 (ii) For each airport location; and



1 (iii) For each lessee;

2 (E) The lessor includes in these reports the
3 methodology used to determine the amount of fees
4 charged to each lessee; and

5 (F) The lessor submits the above information to the
6 department of transportation and the department
7 of commerce and consumer affairs within three
8 months of the end of the preceding annual
9 accounting period or contract year as determined
10 by the applicable concession agreement or service
11 permit.

12 The respective departments, in their sole discretion,
13 may extend the time to submit the statement required
14 in this subsection. If the director determines that
15 an examination of the lessor's information is
16 inappropriate under this subsection and the lessor
17 fails to correct the matter within ninety days, the
18 director may conduct an examination and charge a
19 lessor an examination fee based upon the cost per hour
20 per examiner for evaluating, investigating, and
21 verifying compliance with this subsection, as well as
22 additional amounts for travel, per diem, mileage, and



1 other reasonable expenses incurred in connection with
2 the examination, which shall relate solely to the
3 requirements of this subsection, and which shall be
4 billed by the departments as soon as feasible after
5 the close of the examination. The cost per hour shall
6 be \$40 or as may be established by rules adopted by
7 the director. The lessor shall pay the amounts billed
8 within thirty days following the billing. All moneys
9 collected by the director shall be credited to the
10 compliance resolution fund."

11 SECTION 5. Section 46-16.8, Hawaii Revised Statutes, is
12 repealed.

13 ~~["§46-16.8] County surcharge on state tax. (a) Each~~
14 ~~county may establish a surcharge on state tax at the rates~~
15 ~~enumerated in sections 237-8.6 and 238-2.6. A county electing~~
16 ~~to establish this surcharge shall do so by ordinance; provided~~
17 ~~that:~~

- 18 ~~(1) No ordinance shall be adopted until the county has~~
19 ~~conducted a public hearing on the proposed ordinance;~~
20 ~~(2) The ordinance shall be adopted prior to December 31,~~
21 ~~2005; and~~



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1 ~~(3) No county surcharge on state tax that may be~~
2 ~~authorized under this section shall be levied prior to~~
3 ~~January 1, 2007.~~

4 ~~Notice of the public hearing required under paragraph (1) shall~~
5 ~~be published in a newspaper of general circulation within the~~
6 ~~county at least twice within a period of thirty days immediately~~
7 ~~preceeding the date of the hearing.~~

8 ~~(b) A county electing to exercise the authority granted~~
9 ~~under this section shall notify the director of taxation within~~
10 ~~ten days after the county has adopted a surcharge on state tax~~
11 ~~ordinance and, beginning no earlier than January 1, 2007, the~~
12 ~~director of taxation shall levy, assess, collect, and otherwise~~
13 ~~administer the county surcharge on state tax.~~

14 ~~(c) Each county with a population greater than five~~
15 ~~hundred thousand that adopts a county surcharge on state tax~~
16 ~~ordinance pursuant to subsection (a) shall use the surcharges~~
17 ~~received from the State for:~~

18 ~~(1) Operating or capital costs of a locally preferred~~
19 ~~alternative for a mass transit project; and~~

20 ~~(2) Expenses in complying with the Americans with~~
21 ~~Disabilities Act of 1990 with respect to paragraph~~

22 ~~(1).~~



1 ~~The county surcharge on state tax shall not be used to build or~~
2 ~~repair public roads or highways, bicycle paths, or support~~
3 ~~public transportation systems already in existence prior to July~~
4 ~~12, 2005.~~

5 ~~(d) Each county with a population equal to or less than~~
6 ~~five hundred thousand that adopts a county surcharge on state~~
7 ~~tax ordinance pursuant to subsection (a) shall use the~~
8 ~~surcharges received from the State for:~~

9 ~~(1) Operating or capital costs of public transportation~~
10 ~~within each county for public transportation systems,~~
11 ~~including public roadways or highways, public buses,~~
12 ~~trains, ferries, pedestrian paths or sidewalks, or~~
13 ~~bicycle paths; and~~

14 ~~(2) Expenses in complying with the Americans with~~
15 ~~Disabilities Act of 1990 with respect to paragraph~~
16 ~~(1).~~

17 ~~(e) As used in this section, "capital costs" means~~
18 ~~nonrecurring costs required to construct a transit facility or~~
19 ~~system, including debt service, costs of land acquisition and~~
20 ~~development, acquiring of rights of way, planning, design, and~~
21 ~~construction, and including equipping and furnishing the~~
22 ~~facility or system."]~~



1 SECTION 6. Section 237-8.6, Hawaii Revised Statutes, is
2 repealed.

3 ~~["§237-8.6] County surcharge on state tax;~~
4 ~~administration. (a) The county surcharge on state tax, upon~~
5 ~~the adoption of county ordinances and in accordance with the~~
6 ~~requirements of section 46-16.8, shall be levied, assessed, and~~
7 ~~collected as provided in this section on all gross proceeds and~~
8 ~~gross income taxable under this chapter. No county shall set~~
9 ~~the surcharge on state tax at a rate greater than one-half per~~
10 ~~cent of all gross proceeds and gross income taxable under this~~
11 ~~chapter. All provisions of this chapter shall apply to the~~
12 ~~county surcharge on state tax. With respect to the surcharge,~~
13 ~~the director of taxation shall have all the rights and powers~~
14 ~~provided under this chapter. In addition, the director of~~
15 ~~taxation shall have the exclusive rights and power to determine~~
16 ~~the county or counties in which a person is engaged in business~~
17 ~~and, in the case of a person engaged in business in more than~~
18 ~~one county, the director shall determine, through apportionment~~
19 ~~or other means, that portion of the surcharge on state tax~~
20 ~~attributable to business conducted in each county.~~
21 (b) ~~Each county surcharge on state tax that may be adopted~~
22 ~~pursuant to section 46-16.8(a) shall be levied beginning in the~~



1 ~~taxable year after the adoption of the relevant county~~
2 ~~ordinance; provided that no surcharge on state tax may be levied~~
3 ~~prior to January 1, 2007.~~

4 ~~(c) The county surcharge on state tax, if adopted, shall~~
5 ~~be imposed on the gross proceeds or gross income of all written~~
6 ~~contracts that require the passing on of the taxes imposed under~~
7 ~~this chapter; provided that if the gross proceeds or gross~~
8 ~~income are received as payments beginning in the taxable year in~~
9 ~~which the taxes become effective, on contracts entered into~~
10 ~~before June 30 of the year prior to the taxable year in which~~
11 ~~the taxes become effective, and the written contracts do not~~
12 ~~provide for the passing on of increased rates of taxes, the~~
13 ~~county surcharge on state tax shall not be imposed on the gross~~
14 ~~proceeds or gross income covered under the written contracts.~~

15 ~~The county surcharge on state tax shall be imposed on the gross~~
16 ~~proceeds or gross income from all contracts entered into on or~~
17 ~~after June 30 of the year prior to the taxable year in which the~~
18 ~~taxes become effective, regardless of whether the contract~~
19 ~~allows for the passing on of any tax or any tax increases.~~

20 ~~(d) No county surcharge on state tax shall be established~~
21 ~~on any:~~



- 1 ~~(1) Gross income or gross proceeds taxable under this~~
2 ~~chapter at the one-half per cent tax rate;~~
- 3 ~~(2) Gross income or gross proceeds taxable under this~~
4 ~~chapter at the 0.15 per cent tax rate; or~~
- 5 ~~(3) Transactions, amounts, persons, gross income, or gross~~
6 ~~proceeds exempt from tax under this chapter.~~
- 7 ~~(c) The director of taxation shall revise the general~~
8 ~~excise tax forms to provide for the clear and separate~~
9 ~~designation of the imposition and payment of the county~~
10 ~~surcharge on state tax.~~
- 11 ~~(f) The taxpayer shall designate the taxation district to~~
12 ~~which the county surcharge on state tax is assigned in~~
13 ~~accordance with rules adopted by the director of taxation under~~
14 ~~chapter 91. The taxpayer shall file a schedule with the~~
15 ~~taxpayer's periodic and annual general excise tax returns~~
16 ~~summarizing the amount of taxes assigned to each taxation~~
17 ~~district.~~
- 18 ~~(g) The penalties provided by section 231-39 for failure~~
19 ~~to file a tax return shall be imposed on the amount of surcharge~~
20 ~~due on the return being filed for the failure to file the~~
21 ~~schedule required to accompany the return. In addition, there~~
22 ~~shall be added to the tax an amount equal to ten per cent of the~~



1 ~~amount of the surcharge and tax due on the return being filed~~
2 ~~for the failure to file the schedule or the failure to correctly~~
3 ~~report the assignment of the general excise tax by taxation~~
4 ~~district on the schedule required under this subsection.~~

5 ~~(h) All taxpayers who file on a fiscal year basis whose~~
6 ~~fiscal year ends after December 31 of the year prior to the~~
7 ~~taxable year in which the taxes become effective, shall file a~~
8 ~~short period annual return for the period preceding January 1 of~~
9 ~~the taxable year in which the taxes become effective. Each~~
10 ~~fiscal year taxpayer shall also file a short period annual~~
11 ~~return for the period starting on January 1 of the taxable year~~
12 ~~in which the taxes become effective, and ending before January 1~~
13 ~~of the following year."]~~

14 SECTION 7. Section 238-2.6, Hawaii Revised Statutes, is
15 repealed.

16 ~~["**§238-2.6** County surcharge on state tax;~~
17 ~~**administration.** (a) The county surcharge on state tax, upon~~
18 ~~the adoption of a county ordinance and in accordance with the~~
19 ~~requirements of section 46-16.8, shall be levied, assessed, and~~
20 ~~collected as provided in this section on the value of property~~
21 ~~and services taxable under this chapter. No county shall set~~
22 ~~the surcharge on state tax at a rate greater than one-half per~~



1 ~~cent of the value of property taxable under this chapter. All~~
2 ~~provisions of this chapter shall apply to the county surcharge~~
3 ~~on state tax. With respect to the surcharge, the director shall~~
4 ~~have all the rights and powers provided under this chapter. In~~
5 ~~addition, the director of taxation shall have the exclusive~~
6 ~~rights and power to determine the county or counties in which a~~
7 ~~person imports or purchases tangible personal property and, in~~
8 ~~the case of a person importing or purchasing tangible property~~
9 ~~in more than one county, the director shall determine, through~~
10 ~~apportionment or other means, that portion of the surcharge on~~
11 ~~state tax attributable to the importation or purchase in each~~
12 ~~county.~~

13 ~~(b) Each county surcharge on state tax that may be adopted~~
14 ~~shall be levied beginning in the taxable year after the adoption~~
15 ~~of the relevant county ordinance; provided that no surcharge on~~
16 ~~state tax may be levied prior to January 1, 2007.~~

17 ~~(c) No county surcharge on state tax shall be established~~
18 ~~upon any use taxable under this chapter at the one-half per cent~~
19 ~~tax rate or upon any use that is not subject to taxation or that~~
20 ~~is exempt from taxation under this chapter.~~



1 ~~(d) The director of taxation shall revise the use tax~~
2 ~~forms to provide for the clear and separate designation of the~~
3 ~~imposition and payment of the county surcharge on state tax.~~

4 ~~(e) The taxpayer shall designate the taxation district to~~
5 ~~which the county surcharge on state tax is assigned in~~
6 ~~accordance with rules adopted by the director of taxation under~~
7 ~~chapter 91. The taxpayer shall file a schedule with the~~
8 ~~taxpayer's periodic and annual use tax returns summarizing the~~
9 ~~amount of taxes assigned to each taxation district.~~

10 ~~(f) The penalties provided by section 231-39 for failure~~
11 ~~to file a tax return shall be imposed on the amount of surcharge~~
12 ~~due on the return being filed for the failure to file the~~
13 ~~schedule required to accompany the return. In addition, there~~
14 ~~shall be added to the tax an amount equal to ten per cent of the~~
15 ~~amount of the surcharge and tax due on the return being filed~~
16 ~~for the failure to file the schedule or the failure to correctly~~
17 ~~report the assignment of the use tax by taxation district on the~~
18 ~~schedule required under this subsection.~~

19 ~~(g) All taxpayers who file on a fiscal year basis whose~~
20 ~~fiscal year ends after December 31 of the year prior to the~~
21 ~~taxable year in which the taxes become effective, shall file a~~
22 ~~short period annual return for the period preceding January 1 of~~



1 ~~the taxable year in which the taxes become effective. Each~~
2 ~~fiscal year taxpayer shall also file a short period annual~~
3 ~~return for the period starting on January 1 of the taxable year~~
4 ~~in which the taxes become effective, and ending before January 1~~
5 ~~of the following year."]~~

6 SECTION 8. Section 248-2.6, Hawaii Revised Statutes, is
7 repealed.

8 [~~§248-2.6~~ ~~County surcharge on state tax; disposition of~~
9 ~~proceeds.~~ (a) ~~If adopted by county ordinance, all county~~
10 ~~surcharges on state tax collected by the director of taxation~~
11 ~~shall be paid into the state treasury quarterly, within ten~~
12 ~~working days after collection, and shall be placed by the~~
13 ~~director of finance in special accounts. Out of the revenues~~
14 ~~generated by county surcharges on state tax paid into each~~
15 ~~respective state treasury special account, the director of~~
16 ~~finance shall deduct ten per cent of the gross proceeds of a~~
17 ~~respective county's surcharge on state tax to reimburse the~~
18 ~~State for the costs of assessment, collection, and disposition~~
19 ~~of the county surcharge on state tax incurred by the State.~~
20 ~~Amounts retained shall be general fund realizations of the~~
21 ~~State.~~



1 ~~(b) The amounts deducted for costs of assessment,~~
2 ~~collection, and disposition of county surcharges on state tax~~
3 ~~shall be withheld from payment to the counties by the State out~~
4 ~~of the county surcharges on state tax collected for the current~~
5 ~~calendar year.~~

6 ~~(c) For the purpose of this section, the costs of~~
7 ~~assessment, collection, and disposition of the county surcharges~~
8 ~~on state tax shall include any and all costs, direct or~~
9 ~~indirect, that are deemed necessary and proper to effectively~~
10 ~~administer this section and sections 237-8.6 and 238-2.6.~~

11 ~~(d) After the deduction and withholding of the costs under~~
12 ~~subsections (a) and (b), the director of finance shall pay the~~
13 ~~remaining balance on [a] quarterly basis to the director of~~
14 ~~finance of each county that has adopted a county surcharge on~~
15 ~~state tax under section 46-16.8. The quarterly payments shall~~
16 ~~be made after the county surcharges on state tax have been paid~~
17 ~~into the state treasury special accounts or after the~~
18 ~~disposition of any tax appeal, as the case may be. All county~~
19 ~~surcharges on state tax collected shall be distributed by the~~
20 ~~director of finance to the county in which the county surcharge~~
21 ~~on state tax is generated and shall be a general fund~~



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1 realization of the county, to be used for the purposes specified
2 in section 46-16.8 by each of the counties."]

3 SECTION 9. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 10. This Act shall take effect upon its approval.

6

INTRODUCED BY:

[Signature]
Rick T. R. Ciccanella

[Signature]
[Signature]
[Signature]

Alex m. Sorenson

JAN 18 2007



Report Title:

Casino Gaming; Fund Fixed Guideway; Repeal Excise Increase

Description:

Establishes Hawaii gaming control commission and framework for casino gaming on Oahu only. Levies 10% tax of which 5% is to be remitted to the city and county of Honolulu to fund the fixed guideway transportation system on Oahu. Repeals general excise tax surcharge to fund transit on Oahu.

