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# A BILL FOR AN ACT

RELATING TO THE SMALL BUSINESS BILL OF RIGHTS.

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

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**PART I**

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

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



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

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

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



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

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

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

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

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



- 1 rule changes on the internet website of the office of  
2 the lieutenant governor;
- 3 (3) The right to timely notice of an agency's rulemaking  
4 proceedings when requested. The notice should be  
5 mailed to all persons who have made a written request  
6 for such a notice;
- 7 (4) The right to be treated equally and fairly, with  
8 reasonable access to state services;
- 9 (5) The right to a one-stop permitting process that  
10 includes a centralized internet website-based  
11 application system. This site should have quick and  
12 responsible timeframes to process state and county  
13 permits, licenses, registrations, and approvals, when  
14 appropriate, to simplify and reduce the filing of  
15 forms affecting business;
- 16 (6) The right to a timely response to an application for a  
17 permit, license, registration, or approval necessary  
18 to operate the small business, within the established  
19 maximum period of time for that agency in accordance  
20 with section 91-13.5, Hawaii Revised Statutes;
- 21 (7) The right to automatic renewal of essential permits,  
22 licenses, registrations, or approvals, absent a



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

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

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



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

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

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



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



1 ensure government resources are coordinated on behalf  
2 of small business and the rights of businesses are  
3 being upheld; and

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

9 **PART II**

10 SECTION 3. Section 96-8, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 **"§96-8 Appropriate subjects for investigation.** An  
13 appropriate subject for investigation is an administrative act  
14 of an agency which might be:

- 15 (1) Contrary to law;
- 16 (2) Unreasonable, unfair, oppressive, or unnecessarily  
17 discriminatory, even though in accordance with law;
- 18 (3) Based on a mistake of fact;
- 19 (4) Based on improper or irrelevant grounds;
- 20 (5) Unaccompanied by an adequate statement of reasons;
- 21 (6) Performed in an inefficient manner; [øæ]
- 22 (7) Otherwise erroneous[-]; or





1        (8) A violation of the small business bill of rights.

2        The ombudsman may investigate to find an appropriate  
3        remedy."

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

6        SECTION 5. This Act shall take effect on July 1, 2034.



**Report Title:**

Small Business Bill of Rights

**Description:**

Establishes the Small Business Bill of Rights; authorizes the Ombudsman to investigate complaints of violations of the Small Business Bill of Rights. (SD1)

