



1 "Establishment" means a single physical location where a  
2 business is conducted. A business may include one or more  
3 establishments, any number of which may be in a fixed guideway  
4 station enterprise zone.

5 "Fixed guideway station enterprise zone" means an area:

- 6 (1) Designated by the governor, upon the recommendation of  
7 the director of business, economic development, and  
8 tourism under this chapter that is within a one-half  
9 mile radius of a fixed guideway station;
- 10 (2) That is within the jurisdiction of a county  
11 government; and
- 12 (3) That is eligible for the benefits under this chapter.

13 "Full-time employee" means any employee for whom the  
14 employer is legally required to provide employee fringe  
15 benefits.

16 "Qualified business" means any corporation, partnership, or  
17 sole proprietorship authorized to do business in the State that  
18 is qualified under section -6, subject to the state corporate  
19 or individual income tax under chapter 235, and includes the  
20 construction, operation, administration, or maintenance of  
21 affordable housing, and retail, services, or parking businesses.



1 "Taxes due the State" means income taxes due under chapter  
2 235.

3 § -3 Fixed guideway station enterprise zone designation.

4 The governor, upon the recommendation of the director, shall:

5 (1) Approve the designation of areas within the State as  
6 fixed guideway station enterprise zones that are  
7 within a one-half mile radius of fixed guideway  
8 station and fix their boundaries for a period of  
9 twenty years; and

10 (2) Allow the Hawaii community development authority to  
11 develop affordable housing, workforce housing, and  
12 retail, services, and parking businesses within a  
13 fixed guideway station enterprise zone; provided that  
14 income eligibility for workforce housing shall be one  
15 hundred sixty per cent or less of the median household  
16 income within the zone as determined by the United  
17 States Department of Housing and Urban Development.

18 A fixed guideway station enterprise zone shall not be subject to  
19 the requirement for prior authorization of the legislature by  
20 concurrent resolution under section 171-53.

21 § -4 Government assistance; prohibition. There shall be  
22 no duplication of existing state tax incentives to qualified



1 businesses that locate in a fixed guideway station enterprise  
2 zone.

3       § -5 Rules. The department shall adopt rules in  
4 accordance with chapter 91 to implement this chapter, including  
5 rules relating to health, safety, building, planning, zoning,  
6 and land use, which shall supersede all other inconsistent  
7 ordinances and rules relating to the use, zoning, planning, and  
8 development of land and construction in a fixed guideway station  
9 enterprise zone. Rules adopted under this section shall follow  
10 existing law, rules, and ordinances as closely as is consistent  
11 with standards meeting minimum requirements of energy  
12 efficiency, health, and safety. The department may provide by  
13 rule that lands within a fixed guideway station enterprise zone  
14 shall not be developed beyond existing uses or that improvements  
15 thereon shall not be demolished or substantially reconstructed,  
16 or may provide other restrictions on the use of the zone.

17       § -6 Eligibility; qualified business. (a) Any business  
18 may be eligible to be designated a qualified business for  
19 purposes of this chapter if the business:

20           (1) Begins the operation of a business within a fixed  
21           guideway station enterprise zone;



1 (2) Increases its average annual number of full-time  
2 employees by at least ten per cent by the end of its  
3 first tax year of participation; and

4 (3) During each subsequent taxable year at least maintains  
5 that higher level of employment.

6 (b) A business also may be eligible to be designated a  
7 qualified business for purposes of this chapter if the business:

8 (1) Is actively engaged in conducting a business in an  
9 area immediately prior to an area being designated a  
10 fixed guideway station enterprise zone; and

11 (2) Increases its average annual number of full-time  
12 employees employed at the business's establishment or  
13 establishments located within the fixed guideway  
14 station enterprise zone by at least ten per cent by  
15 the end of the first tax year of participation.

16 During each subsequent tax year, the establishment  
17 shall maintain at least that higher level of  
18 employment.

19 (c) After designation as a fixed guideway station  
20 enterprise zone, each qualified business in the zone shall  
21 submit annually to the department an approved form supplied by  
22 the department that provides the information necessary for the



1 department to determine if the business qualifies as a qualified  
2 business. The approved form shall be submitted by each business  
3 to the governing body of the county in which the fixed guideway  
4 station enterprise zone is located, then forwarded to the  
5 department by the governing body of the county.

6 (d) The form referred to in subsection (c) shall be prima  
7 facie evidence of the eligibility of a business for the purposes  
8 of this section.

9 § -7 State business tax credit. (a) The director shall  
10 certify annually to the department of taxation the applicability  
11 of the tax credit provided in this chapter for a qualified  
12 business against any taxes due the State. Except for the  
13 general excise tax, the credit shall be:

- 14 (1) Eighty per cent of the tax due for the first tax year;
- 15 (2) Seventy per cent of the tax due for the second tax  
16 year;
- 17 (3) Sixty per cent of the tax due for the third year;
- 18 (4) Fifty per cent of the tax due the fourth year;
- 19 (5) Forty per cent of the tax due the fifth year;
- 20 (6) Thirty per cent of the tax due the sixth year; and
- 21 (7) Twenty per cent of the tax due the seventh year.



1 Any tax credit not usable shall not be applied to future tax  
2 years.

3 (b) When a partnership is eligible for a tax credit under  
4 this section, each partner shall be eligible for the tax credit  
5 provided for in this section on the partner's income tax return  
6 in proportion to the amount of income received by the partner  
7 from the partnership. Any qualified business having taxable  
8 income from the active conduct of a business, both within and  
9 without the fixed guideway station enterprise zone, shall  
10 allocate and apportion its taxable income attributable to that  
11 production. Tax credits provided for in this section shall only  
12 apply to taxable income of a qualified business attributable to  
13 the active conduct of a business within the fixed guideway  
14 station enterprise zone.

15 (c) In addition to any tax credit authorized under this  
16 section, any qualified business shall be entitled to a tax  
17 credit against any taxes due the State in an amount equal to a  
18 percentage of unemployment taxes paid. The amount of the credit  
19 shall be equal to:

20 (1) Eighty per cent of the unemployment taxes paid during  
21 the first year;



1 (2) Seventy per cent of the taxes paid during the second  
2 year;

3 (3) Sixty per cent of the taxes paid during the third  
4 year;

5 (4) Fifty per cent of the taxes paid during the fourth  
6 year;

7 (5) Forty per cent of the taxes paid during the fifth  
8 year;

9 (6) Thirty per cent of the taxes paid during the sixth  
10 year; and

11 (7) Twenty per cent of the taxes paid during the seventh  
12 year.

13 (d) Tax credits provided for in subsection (c) shall only  
14 apply to the unemployment tax paid on employees employed at the  
15 qualified business' establishment or establishments located  
16 within the fixed guideway station enterprise zone. Any tax  
17 credit not usable shall not be applied to future tax years.

18 § -8 State general excise and use tax exemptions. The  
19 director shall certify annually to the department of taxation  
20 that any qualified business is exempt from the payment of  
21 general excise taxes on the gross proceeds from the conduct of a  
22 business within a fixed guideway station enterprise zone. The





1 director shall also certify annually to the department of  
2 taxation that any qualified business is exempt from the use tax  
3 for purchases by the qualified business. The gross proceeds  
4 received by a contractor licensed under chapter 444 shall be  
5 exempt from the general excise tax for construction within a  
6 fixed guideway station enterprise zone performed for a qualified  
7 business within a fixed guideway station enterprise zone. The  
8 exemption shall extend for a period not to exceed seven years.

9 § -9 Local incentives. A county may propose local  
10 incentives to be made available in a fixed guideway station  
11 enterprise zone, including:

- 12 (1) Reduction of permit fees;
- 13 (2) Reduction of user fees;
- 14 (3) Reduction of real property taxes; and
- 15 (4) Regulatory flexibility, including, but not limited to:
  - 16 (A) Special zoning districts;
  - 17 (B) Permit process reform;
  - 18 (C) Exemptions from local ordinances; and
  - 19 (D) Other public incentives,

20 which shall be binding upon the locality upon  
21 designation of the fixed guideway station enterprise  
22 zone.



1           §   -10 Termination of fixed guideway station enterprise  
2 zone. Upon designation of an area as a fixed guideway station  
3 enterprise zone, the proposals for regulatory flexibility, tax  
4 incentives, and other public incentives specified in this  
5 chapter shall be binding upon the county governing body to the  
6 extent and for the period of time pursuant to section   -3. If  
7 the county governing body is unable or unwilling to provide any  
8 of the incentives set forth in section   -9 or other incentives  
9 acceptable to the director, and the director has not adopted  
10 rules pursuant to section   -5 that supersede inconsistent  
11 ordinances and rules relating to the use, zoning, planning, and  
12 development of land and construction in a fixed guideway station  
13 enterprise zone, then the fixed guideway station enterprise zone  
14 shall terminate. Qualified businesses located in the fixed  
15 guideway station enterprise zone shall be eligible to receive  
16 the state tax incentives provided by this chapter even though  
17 the zone designation has terminated. No business may become a  
18 qualified business after the date of zone termination."

19           SECTION 2. This Act does not affect rights and duties that  
20 matured, penalties that were incurred, and proceedings that were  
21 begun, before its effective date.




1 SECTION 3. This Act shall take effect on July 1, 2009.

2

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**Report Title:**

Fixed Guideway Station Enterprise Zones

**Description:**

Creates enterprise zones within a half-mile radius of stations of a fixed guideway system on Oahu. Grants various tax concessions relating to enterprise zones to qualified businesses, including new construction of affordable housing within those zones.

