



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

3 (2) Is in a partnership or joint venture relationship  
4 with; or

5 (3) Is a co-shareholder of a corporation, a co-member of a  
6 limited liability company, or a co-partner in a  
7 limited liability partnership with;

8 a person who holds or applies for a casino license under this  
9 chapter.

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

15 "Applicant" means any person who applies for a license  
16 under this chapter.

17 "Casino facility" means a freestanding, land-based  
18 structure in which casino gaming permitted under this chapter  
19 may be conducted that may include bars, restaurants, showrooms,  
20 theaters, or other facilities, but does not include any  
21 structure used for hotel or other transient accommodation  
22 lodging purposes.



1 "Casino gaming", "limited casino gaming", "game", or  
2 "gaming", as the context may require, means the operation of  
3 games conducted pursuant to this chapter in a licensed casino  
4 facility including but not limited to the games commonly known  
5 as "baccarat", "twenty-one", "poker", "craps", "slot machine",  
6 "video gaming of chance", "roulette wheel", "Klondike table",  
7 "punch-board", "faro layout", "numbers ticket", "push car", "jar  
8 ticket", "pull tab", or their common variants, or any other game  
9 of chance that is authorized by the commission as a wagering  
10 device.

11 "Casino license" means a license to operate and maintain a  
12 casino facility for casino gaming permitted under this chapter.

13 "Chairperson" means the chairperson of the Hawaii gaming  
14 control commission.

15 "Commission" means the Hawaii gaming control commission.

16 "Conflict of interest" means a situation in which the  
17 private interest of a member, employee, or agent of the  
18 commission may influence the judgment of the member, employee,  
19 or agent in the performance of the member's, employee's, or  
20 agent's public duty under this chapter. A conflict of interest  
21 includes but is not limited to the following:



1 (1) Any conduct that would lead a reasonable person,  
2 knowing all of the circumstances, to conclude that the  
3 member, employee, or agent of the commission is biased  
4 against or in favor of an applicant;

5 (2) Acceptance of any form of compensation other than from  
6 the commission for any services rendered as part of  
7 the official duties of the member, employee, or agent  
8 for the commission; or

9 (3) Participation in any business being transacted with or  
10 before the commission in which the member, employee,  
11 or agent of the commission or the member's,  
12 employee's, or agent's parent, spouse, or child has a  
13 financial interest.

14 "Department" means the department of business, economic  
15 development, and tourism.

16 "Ex parte communication" means any communication, direct or  
17 indirect, regarding a licensing application, disciplinary  
18 action, or a contested case under this chapter other than  
19 communication that takes place during a meeting or hearing  
20 conducted under this chapter or in a manner otherwise authorized  
21 by this chapter.



1 "Executive director" means the executive director of the  
2 commission.

3 "Financial interest" or "financially interested" means any  
4 interest in investments, awarding of contracts, grants, loans,  
5 purchases, leases, sales, or similar matters under consideration  
6 or consummated by the commission or holding a one per cent or  
7 more ownership interest in an applicant or a licensee. For  
8 purposes of this definition, a member, employee, or agent of the  
9 commission shall be considered to have a financial interest in a  
10 matter under consideration if any of the following circumstances  
11 exist:

12 (1) The individual owns one per cent or more of any class  
13 of outstanding securities that are issued by a party  
14 to the matter under consideration or consummated by  
15 the commission; or

16 (2) The individual is employed by or is an independent  
17 contractor for a party to the matter under  
18 consideration or consummated by the commission.

19 "Gross receipts":

20 (1) Means the total of:

21 (A) Cash received or retained as winnings by a  
22 licensee;



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

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

5 (2) Does not include:

6 (A) Counterfeit money or tokens;

7 (B) Coins of other countries that are received in  
8 gaming devices;

9 (C) Cash taken in fraudulent acts perpetrated against  
10 a licensee for which the licensee is not  
11 reimbursed; and

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

14 "Individual" means a natural person.

15 "Institutional investor" means:

16 (1) Any retirement fund administered by a public agency  
17 for the exclusive benefit of federal, state, or county  
18 public employees;

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



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

4 (4) A collective investment trust organized by a bank  
5 under title 12 Code of Federal Regulations section  
6 9.18 of the rules of the United States Comptroller of  
7 the Currency;

8 (5) A closed end investment trust;

9 (6) A chartered or licensed life insurance company or  
10 property and casualty insurance company;

11 (7) A chartered or licensed financial institution;

12 (8) An investment advisor registered under the Investment  
13 Advisers Act of 1940, (54 Stat. 847, 15 U.S.C.  
14 sections 80b-1 to 80b-21 as amended);

15 (9) Any other person as the commission may determine for  
16 reasons consistent with this chapter.

17 "Investigative hearing" means any hearing conducted by the  
18 commission or its authorized representative to investigate and  
19 gather information or evidence regarding pending license  
20 applicants, qualifiers, licensees, or alleged or apparent  
21 violations of this chapter or rules adopted by the commission.

22 An investigative hearing shall include any matter related to an



1 apparent deficiency, except for informal conferences requested  
2 under section -11.

3 "Junket enterprise" means any person other than a casino  
4 licensee or applicant who employs or otherwise engages in the  
5 procurement or referral of persons who may participate in a  
6 junket to a casino licensed under this chapter or casino  
7 enterprise whether or not those activities occur within the  
8 State.

9 "Managerial employee" means a person who holds a policy  
10 making position with the commission or any vendor or licensee  
11 under this chapter.

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

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

19 "Qualifier" means an affiliate, affiliated company,  
20 officer, director, or managerial employee of an applicant, or a  
21 person who holds greater than a five per cent direct or indirect  
22 interest in an applicant. As used in this definition,





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

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

17 "Supplier's license" means a license that authorizes a  
18 supplier to furnish any equipment, devices, supplies, or  
19 services to a licensed casino facility permitted under this  
20 chapter.



1 "Vendor" means a person who is not licensed under this  
2 chapter who supplies any goods or services to a casino licensee  
3 or supplier licensee.

4 "Wagerer" means a person who plays a gambling game  
5 authorized under this chapter.

6 § -3 Hawaii gaming control commission. (a) There is  
7 established the Hawaii gaming control commission, which shall be  
8 a body corporate and a public instrumentality of the State for  
9 the purpose of implementing this chapter. The commission shall  
10 be placed within the department of business, economic  
11 development, and tourism for administrative purposes. The  
12 commission shall consist of three members to be appointed by the  
13 governor with the advice and consent of the senate under section  
14 26-34. Of the three members, one shall be appointed from a list  
15 of nominees submitted by the president of the senate and one  
16 shall be appointed from a list of nominees submitted by the  
17 speaker of the house of representatives. Appointments of  
18 initial commission members shall be made within ten days of the  
19 effective date of this Act.

20 (b) No person shall be appointed as a member of the  
21 commission or continue to be a member of the commission if the  
22 person:



- 1           (1) Is an elected state official;
- 2           (2) Is licensed by the commission pursuant to this
- 3           chapter, or is an official of, has a financial
- 4           interest in, or has a financial relationship with, any
- 5           gaming operation subject to the jurisdiction of this
- 6           commission pursuant to this chapter;
- 7           (3) Is related to any person within the second degree of
- 8           consanguinity or affinity who is licensed by the
- 9           commission pursuant to this chapter; or
- 10          (4) Has been under indictment, convicted, pled guilty or
- 11          nolo contendere, or forfeited bail for a felony or a
- 12          misdemeanor involving gambling or fraud under the laws
- 13          of this State, any other state, or the United States
- 14          within the ten years prior to appointment, or a local
- 15          ordinance in a state involving gambling or fraud that
- 16          substantially corresponds to a misdemeanor in that
- 17          state within the ten years prior to appointment.
- 18          (c) The term of office of a commission member shall be
- 19          five years. Vacancies in the commission shall be filled for the
- 20          unexpired term in like manner as the original appointments;
- 21          provided that the governor shall have thirty days following the

1 occurrence of a vacancy to appoint a successor member to the  
2 commission.

3 (d) After due notice and public hearing, the governor may  
4 remove or suspend for cause any member of the commission.

5 (e) Members of the commission shall:

6 (1) Be a resident of the State;

7 (2) Serve part-time;

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

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

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



1 (g) Before assuming the duties of office, each member of  
2 the commission shall take an oath that the member shall  
3 faithfully execute the duties of office according to the laws of  
4 the State and shall file and maintain with the director a bond  
5 in the sum of \$25,000 with good and sufficient sureties. The  
6 cost of any bond for any member of the commission under this  
7 section shall be considered a part of the necessary expenses of  
8 the commission.

9 (h) The commission shall appoint a person to serve as the  
10 executive director of the commission and who shall be subject to  
11 the commission's supervision. The commission shall appoint an  
12 interim executive director within ten days of the commission's  
13 initial meeting who shall be exempt from paragraphs (3) and (4)  
14 such that the interim executive director may be a current public  
15 employee or regulatory official from a similar body in another  
16 state who temporarily undertakes the role of interim executive  
17 director. The executive director shall:

- 18 (1) Hold office at the will of the commission;
- 19 (2) Be exempt from chapters 76 and 89;
- 20 (3) Devote full time to the duties of the office;
- 21 (4) Not hold any other office or employment;

- 1 (5) Perform any and all duties that the commission
- 2 assigns;
- 3 (6) Receive an annual salary at an amount set by the
- 4 commission, and shall be reimbursed for expenses
- 5 actually and necessarily incurred in the performance
- 6 of the executive director's duties.
- 7 (i) Except as otherwise provided by law, the executive
- 8 director may:
  - 9 (1) Hire assistants, other officers, and employees, who
  - 10 shall be exempt from chapters 76 and 89 and who shall
  - 11 serve at the will of the executive director; and
  - 12 (2) Appoint committees and consultants necessary for the
  - 13 efficient operation of casino gaming; provided that no
  - 14 person shall be hired or appointed under this
  - 15 subsection who:
    - 16 (A) Is an elected state official;
    - 17 (B) Is licensed by the commission pursuant to this
    - 18 chapter or is an official of, has a financial
    - 19 interest in, or has a financial relationship
    - 20 with, any gaming operation subject to the
    - 21 jurisdiction of this commission pursuant to this
    - 22 chapter;



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

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

13 (j) The salaries of employees hired pursuant to subsection  
14 (i) shall be set by the executive director.

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

22 (l) No person shall be employed by the commission if:



- 1           (1) During the three years immediately preceding  
2                    appointment or employment, the person held any direct  
3                    or indirect interest in, or was employed by:  
4                    (A) A casino licensee under this chapter or in  
5                                another jurisdiction; or  
6                    (B) A potential casino licensee who had an  
7                                application to operate a casino pending before  
8                                the commission or any other jurisdiction;  
9                    except that the person seeking employment may be  
10                   employed by the commission if the person's interest in  
11                   a casino licensee would not, in the opinion of the  
12                   commission, interfere with the objective discharge of  
13                   the person's employment obligations. A person shall  
14                   not be employed by the commission if the person's  
15                   interest in the casino licensee constitutes a  
16                   controlling interest in that casino licensee; or  
17           (2) The person or the person's spouse, parent, child,  
18                   child's spouse, or sibling, is a member of the  
19                   commission, or a director of, or a person financially  
20                   interested in, any person licensed as a casino  
21                   licensee or casino supplier, or any person who has an





1 application for a casino or occupational license  
2 pending before the commission.

3 (m) Each member of the commission, the executive director,  
4 and each key employee, as determined by the commission, shall  
5 file with the governor a financial disclosure statement:

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

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

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

13 (n) Each employee of the commission, except the executive  
14 director or a key employee, shall file with the commission at  
15 the time of employment a financial disclosure statement listing  
16 all assets, liabilities, property and business interests, and  
17 sources of income of the employee and the employee's spouse.

18 (o) A member of the commission, executive director, or key  
19 employee shall not hold direct or indirect interest in, be  
20 employed by, or enter into a contract for service with, any  
21 applicant or person licensed by the commission for a period of



1 five years after the date of termination of the person's  
2 membership on or employment with the commission.

3 (p) An employee of the commission shall not acquire any  
4 direct or indirect interest in, be employed by, or enter into a  
5 contract for services with any applicant or person licensed by  
6 the commission for a period of three years after the date of  
7 termination of the person's employment with the commission.

8 (q) A commission member or a person employed by the  
9 commission shall not represent a person or party other than the  
10 State before or against the commission for a period of three  
11 years after the date of termination of the member's term of  
12 office or the employee's period of employment with the  
13 commission.

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



1           §   -4 Staff. (a) The executive director shall keep  
2 records of all proceedings of the commission and shall preserve  
3 all records, books, documents, and other papers belonging to the  
4 commission or entrusted to its care relating to casino gaming.

5           (b) In addition to persons hired under section       -3(i)  
6 the commission may employ any personnel that may be necessary to  
7 carry out its duties related to casino gaming.

8           §   -5 Powers of the commission. (a) The commission  
9 shall have all powers necessary to fully and effectively  
10 supervise all casino gaming operations, including the power to:

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

19           (2) Issue a ten-year casino license to operate a casino  
20 facility pursuant to this chapter;



- 1           (3) Determine the types and numbers of occupational and  
2           supplier's licenses to be permitted under this  
3           chapter;
- 4           (4) Adopt standards for the licensing of all persons under  
5           this chapter subject to the qualifications and  
6           standards set forth herein, to issue licenses, and to  
7           establish and collect fees for these licenses;
- 8           (5) Provide for the collection of all taxes imposed  
9           pursuant to this chapter, and to collect, receive,  
10          expend, and account for all revenues derived from  
11          casino gaming within the city and county of Honolulu;
- 12          (6) Enter at any time without a warrant and without notice  
13          to a licensee, the premises, offices, casino facility,  
14          or other places of business of a casino licensee, or  
15          casino supplier licensee, where evidence of the  
16          compliance or noncompliance with this chapter or rules  
17          is likely to be found. Entry is authorized to:
- 18               (A) Inspect and examine all premises wherein casino  
19               gaming or the business of gaming or the business  
20               of a supplier is conducted, or where any records  
21               of the activities are prepared;



- 1 (B) Inspect, examine, audit, impound, seize, or
- 2 assume physical control of, or summarily remove
- 3 from the premises all books, ledgers, documents,
- 4 writings, photocopies of correspondence records,
- 5 videotapes, including electronically or digitally
- 6 stored records, money receptacles, other
- 7 containers and their contents, equipment in which
- 8 the records are stored, or other gaming related
- 9 equipment and supplies on or around the premises,
- 10 including counting rooms;
- 11 (C) Inspect the person, and inspect, examine, and
- 12 seize personal effects present in a casino
- 13 facility licensed under this chapter, of any
- 14 holder of a licensed casino facility; and
- 15 (D) Investigate and deter alleged violations of this
- 16 chapter or rules;
- 17 (7) Investigate alleged violations of this chapter and to
- 18 take appropriate disciplinary action against a casino
- 19 licensee or a holder of an occupational or supplier
- 20 license for a violation, or institute appropriate
- 21 legal action for enforcement, or both;



- 1           (8) Be present, through its inspectors and agents, any
- 2           time casino gaming operations are conducted in a
- 3           casino for the purpose of certifying the casino's
- 4           revenue, receiving complaints from the public, and
- 5           conducting other investigations into the conduct of
- 6           the casino gaming and the maintenance of the equipment
- 7           as from time to time the commission may deem necessary
- 8           and proper;
- 9           (9) Adopt appropriate standards for a casino facility as
- 10          well as for electronic or mechanical gaming devices;
- 11          (10) Require that records including financial or other
- 12          statements of a casino licensee under this chapter be
- 13          kept in the manner prescribed by the commission and
- 14          that a licensee involved in the ownership or
- 15          management of casino gaming operations submit to the
- 16          commission an annual balance sheet and profit and loss
- 17          statement, a list of the stockholders or other persons
- 18          having a five per cent or greater beneficial interest
- 19          in the gaming activities of the licensee, and any
- 20          other information the commission deems necessary to
- 21          effectively administer this chapter;



1           (11) Conduct hearings, issue subpoenas for the attendance  
2                   of witnesses and subpoenas duces tecum for the  
3                   production of books, records, and other pertinent  
4                   documents, and to administer oaths and affirmations to  
5                   the witnesses, when, in the judgment of the  
6                   commission, it is necessary to administer or enforce  
7                   this chapter. The executive director or the executive  
8                   director's designee is also authorized to issue  
9                   subpoenas and to administer oaths and affirmations to  
10                  witnesses;

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



1           ejection or exclusion shall be subject to subsequent  
2           hearing by the commission;

3           (13) Permit a casino licensee of casino gaming operations  
4           to use a wagering system whereby wagerers' money may  
5           be converted to tokens, electronic cards, or chips,  
6           which shall be used only for wagering within the  
7           casino facility;

8           (14) Suspend, revoke, or restrict licenses, to require the  
9           removal of a licensee or an employee of a licensee for  
10          a violation of this chapter or a commission rule, or  
11          for engaging in a fraudulent practice;

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

19          (16) Establish minimum levels of insurance to be maintained  
20          by a licensee;



- 1       (17) Delegate the execution of any of its powers for the  
2           purpose of administering and enforcing this chapter;  
3           and
- 4       (18) Adopt rules pursuant to chapter 91 to implement this  
5           chapter; provided that the regulations of the Nevada  
6           gaming commission and Nevada state gaming control  
7           board ("the Nevada regulations") that are in effect on  
8           the effective date of this Act shall be the emergency  
9           interim rules of the commission. As adopted under  
10          this chapter, all references in the Nevada regulations  
11          to "Nevada" shall mean "Hawaii" and all references to  
12          any Nevada state department, agency, commission,  
13          statute, or rule shall mean the equivalent or similar  
14          department, agency, commission, statute, or rule of  
15          the State. To the extent the Nevada regulations are  
16          inconsistent with this chapter, this chapter shall  
17          supersede the Nevada regulations. Due to the imminent  
18          peril to public health, safety, or morals absent valid  
19          rules related to gaming authorized by this chapter,  
20          the commission, under chapter 91, may amend the  
21          emergency interim rules to correct inconsistencies  
22          between the Nevada regulations and this chapter, but



1 the commission shall retain as much of the emergency  
2 interim rules as possible until at least the date on  
3 which the casino licensee authorized by this chapter  
4 begins operating the gaming facility authorized under  
5 this chapter.

6 (b) Rules adopted under this chapter shall not be  
7 arbitrary, capricious, or contradictory to the provisions of  
8 chapter 91. Rules may include but need not be limited to rules  
9 that:

- 10 (1) Govern, restrict, approve, or regulate the casino  
11 gaming authorized in this chapter;
- 12 (2) Promote the safety, security, and integrity of casino  
13 gaming authorized in this chapter;
- 14 (3) License and regulate, consistent with the  
15 qualifications and standards set forth in this  
16 chapter, persons participating in or involved with  
17 casino gaming authorized in this chapter; and
- 18 (4) Authorize any other action that may be reasonable or  
19 appropriate to enforce this chapter and rules adopted  
20 under this chapter.

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



1           §   -6 Member, employee, or agent of commission; conduct  
2 generally. (a) By January 31 of each year, each member of the  
3 commission shall prepare and file with the commission a  
4 disclosure form in which the member shall:

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

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

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

16           (4) Disclose any other information that may be required to  
17 ensure that the integrity of the commission and its  
18 work is maintained.

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



- 1           (1) Affirm the absence of financial interests prohibited  
2                    by this chapter;
- 3           (2) Disclose any legal or beneficial interests in any real  
4                    property that is or that may be directly or indirectly  
5                    involved with gaming or gaming operations authorized  
6                    by this chapter;
- 7           (3) Disclose whether the employee or the employee's  
8                    spouse, parent, child, or child's spouse is  
9                    financially interested in or employed by a supplier  
10                   licensee, or an applicant for a supplier's license,  
11                   under this chapter; and
- 12           (4) Disclose any other information that may be required to  
13                    ensure that the integrity of the commission and its  
14                    work is maintained.
- 15           (c) A member, employee, or agent of the commission who  
16                    becomes aware that the member, employee, or agent of the  
17                    commission or their spouse, parent, or child is a member of the  
18                    board of directors of, financially interested in, or employed by  
19                    a licensee or an applicant shall immediately provide detailed  
20                    written notice to the chairperson.



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

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

6 (2) A local ordinance in any state involving gambling,  
7 dishonesty, theft, or fraud that substantially  
8 corresponds to a misdemeanor in that state; or

9 (3) A felony under Hawaii law, the laws of any other  
10 state, or the laws of the United States, or any other  
11 jurisdiction;

12 shall immediately provide detailed written notice of the  
13 conviction or charge to the chairperson.

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

21 (f) A member, employee, or agent of the commission shall  
22 not enter into any negotiations for employment with any person



1 or affiliate of any person who is a licensee or an affiliate and  
2 shall immediately provide written notice of the details of any  
3 such negotiations or discussions to the chairperson. The  
4 member, employee, or agent of the commission shall not take any  
5 action on behalf of the commission with respect to that person.

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

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



1           (i) A member, employee, or agent of the commission, or  
2 former member, employee, or agent of the commission, shall not  
3 disseminate or otherwise disclose any material or information in  
4 the possession of the commission that the commission considers  
5 confidential, unless specifically authorized to do so by the  
6 chairperson or the commission.

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

21           (k) A licensee or applicant, or affiliate or  
22 representative of an applicant or licensee, shall not, directly



1 or indirectly, knowingly give or offer to give any gift,  
2 gratuity, compensation, travel, lodging, or anything of value to  
3 any member, employee, or agent of the commission that the  
4 member, employee, or agent of the commission is prohibited from  
5 accepting under subsection (j).

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

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

18 (n) A member, employee, or agent of the commission shall  
19 disclose past involvement with any casino interest in the past  
20 five years and shall not engage in political activity or  
21 politically-related activity during the duration of the person's  
22 appointment or employment.





1           (o) A former member, employee, or agent of the commission  
2 may appear before the commission as a witness testifying as to  
3 factual matters or actions handled by the member, employee, or  
4 agent during the person's tenure as a member, employee, or agent  
5 of the commission. The member, employee, or agent of the  
6 commission shall not receive compensation for such an appearance  
7 other than a standard witness fee and reimbursement for travel  
8 expenses as established by statute or court rule.

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

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



1 of the communication or attempted communication in writing to  
2 the chairperson.

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

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



1 (t) An employee or agent of the commission granted  
2 permission for outside employment shall not conduct any business  
3 or perform any activities, including solicitation, related to  
4 outside employment on premises used by the commission or during  
5 the employee's working hours for the commission.

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

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

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

21 (1) A member, employee, or agent of the commission may  
22 participate in and wager on a gambling game conducted



1 by a licensee under this chapter, to the extent  
2 authorized by the chairperson or commission as part of  
3 the person's surveillance, security, or other official  
4 duties for the commission; and

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

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

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

21 (z) A violation of this section by an employee or agent of  
22 the commission shall not result in termination of employment or



1 require other disciplinary action if the commission determines  
2 that the conduct involved does not violate the purpose of this  
3 chapter. Employment shall be terminated:

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

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

11 (aa) If a financial interest in a licensee or an  
12 applicant, or affiliate or representative of a licensee or  
13 applicant, is acquired by:

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

16 (2) An employee of the commission; or

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

18 through no intentional action of the employee or agent, the  
19 employee or agent shall have up to thirty days to divest or

20 terminate the financial interest. Employment may be terminated

21 if the interest has not been divested after thirty days.



1 (bb) Violation of this section does not create a civil  
2 cause of action.

3 (cc) As used in this section:

4 "Outside employment" includes the following:

5 (1) Operation of a proprietorship;

6 (2) Participation in a partnership or group business  
7 enterprise; or

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

11 "Political activity" or "politically related activity"  
12 includes any of the following:

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

16 (2) Knowingly soliciting, accepting, or receiving  
17 political contributions from any person;

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

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



1 (A) Applying for any compensation, grant, contract,  
2 ruling, license, permit, or certificate pending  
3 before the commission; or

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

7 § -7 Authorization of limited gaming. (a) Casino  
8 gaming shall only be permitted in one casino facility in the  
9 Waikiki area on the island of Oahu. Any application for a  
10 casino license to operate the casino facility shall include a  
11 casino facility development plan for the casino facility.

12 (b) The commission's application for a casino license to  
13 operate a casino facility shall be the applications and forms  
14 required for an applicant for a non-restricted Nevada gaming  
15 license that have been adopted by the Nevada gaming commission  
16 and Nevada state gaming control board ("Nevada application") and  
17 are in effect on the effective date of this Act. In addition to  
18 the Nevada application, as part of an applicant's application  
19 for a casino license to operate a casino facility, an applicant  
20 shall submit all additional information required by section

21 -8. Applications for a casino license shall be submitted to  
22 the commission no later than thirty days after the date of the



1 commission's initial meeting. The commission shall select one  
2 applicant who in the commission's judgment best meets all of the  
3 criteria pursuant to section -9 no later than ninety days  
4 after the final date applications must be submitted to the  
5 commission. If the applicant selected by the commission meets  
6 all the requirements of this chapter, the commission shall issue  
7 a casino license to that applicant within thirty days after the  
8 date the applicant is selected.

9 § -8 Application for casino license. (a) A person may  
10 apply to the commission for a casino license to conduct a casino  
11 gaming operation in the Waikiki area on Oahu. The application  
12 shall be made under oath on forms required by this chapter and  
13 shall include all of the following:

14 (1) The name, business address, telephone number, social  
15 security number and, where applicable, the federal tax  
16 identification number of the applicant and every  
17 qualifier;

18 (2) The identity of any business, including, if  
19 applicable, the state of incorporation or  
20 registration, in which the applicant or qualifier has  
21 an equity interest of more than five per cent. If the  
22 applicant or qualifier is a corporation, partnership





1 or other business entity, the applicant or qualifier  
2 shall identify any other corporation, partnership, or  
3 other business entity in which it has an equity  
4 interest of more than five per cent, including, if  
5 applicable, the state of incorporation or  
6 registration;

7 (3) An explanation whether the applicant or qualifier has  
8 developed and opened a new land-based casino in an  
9 urban area within a jurisdiction in the United States  
10 that previously did not allow gaming, including a  
11 description of the casino, the casino's gross revenue,  
12 and the amount of revenue the casino has generated for  
13 state and local governments within that jurisdiction;

14 (4) A statement whether the applicant or a qualifier has  
15 been indicted, convicted, pled guilty or nolo  
16 contendere, or forfeited bail for any felony or for a  
17 misdemeanor involving gambling, theft, or fraud. The  
18 statement shall include the date, the name and  
19 location of the court, arresting agency, prosecuting  
20 agency, the case caption, the docket number, the  
21 offense, the disposition, and the location and length  
22 of incarceration;



- 1 (5) A statement whether the applicant or a qualifier has  
2 ever been granted any license or certificate issued by  
3 a licensing authority in the State, or any other  
4 jurisdiction that has been restricted, revoked, or not  
5 renewed. The statement shall describe the facts and  
6 circumstances concerning that restriction, revocation,  
7 or nonrenewal, including the licensing authority, the  
8 date each action was taken, and the reason for each  
9 action;
- 10 (6) A statement whether the applicant or a qualifier,  
11 within the last ten years, has filed or had filed  
12 against it a civil or administrative action or  
13 proceeding in bankruptcy;
- 14 (7) A statement whether the applicant or a qualifier,  
15 within the last five tax years, has been adjudicated  
16 by a court or tribunal to have failed to pay any final  
17 amount of any income, sales, or gross receipts tax due  
18 and payable under federal, state, or local law, after  
19 exhaustion of all inter-agency appeals processes.  
20 This statement shall identify the amount of the tax,  
21 type of tax, time periods involved, and resolution;



1           (8) A statement listing the names and titles of all public  
2 officials or officers of any unit of state government  
3 or county government in the jurisdiction in which the  
4 casino facility is to be located, and the spouses,  
5 parents, and children of those public officials or  
6 officers who, directly or indirectly, own any  
7 financial interest in, have any beneficial interest  
8 in, are the creditors of or hold any debt instrument  
9 issued by, or hold or have an interest in any  
10 contractual or service relationship with, the  
11 applicant or a qualifier. As used in this paragraph,  
12 "public official" or "officer" does not include a  
13 person who would be listed solely because of the  
14 person's state or federal military service;

15           (9) The name and business telephone number of any  
16 attorney, counsel, or any other person representing an  
17 applicant or a qualifier in matters before the  
18 commission;

19           (10) A description of the applicant or its qualifiers'  
20 history of, or plan for, community involvement or  
21 investment in the area where the casino facility will  
22 be located; and



1           (11) For the applicant only, a description of any proposed  
2           or approved casino gaming facility, including the  
3           economic benefit to the community, anticipated or  
4           actual number of employees, any statement from an  
5           applicant regarding compliance with federal and state  
6           affirmative action guidelines, projected or actual  
7           admissions, projected or actual gross receipts, and  
8           scientific market research, if any.

9           (b) Information provided on the application shall be used  
10          as the basis for a thorough background investigation that the  
11          commission shall conduct with respect to each applicant and  
12          qualifier. An incomplete application shall be cause for denial  
13          of a license by the commission.

14          (c) Applicants shall submit with their application a plan  
15          for training residents of the State for jobs that are available  
16          at the casino facility. The plan shall take into consideration  
17          the need to provide training to low-income persons to enable  
18          such persons to qualify for jobs that will be created in the  
19          casino facility.

20          (d) Each applicant and qualifier shall disclose the  
21          identity of every person, association, trust, or corporation  
22          having a greater than five per cent direct or indirect financial



1 interest in the casino gaming operation for which the license is  
2 sought. If the disclosed entity is a trust, the application  
3 shall disclose the names and addresses of the beneficiaries; if  
4 a corporation, the names and addresses of all stockholders and  
5 directors; if a partnership, the names and addresses of all  
6 partners, both general and limited.

7 (e) A nonrefundable application fee of \$1,000,000 shall be  
8 paid to the commission by an applicant at the time of filing to  
9 defray the costs associated with an applicant and qualifier's  
10 background investigation conducted by the commission. If the  
11 costs of the investigation exceed \$1,000,000, the applicant  
12 shall pay the additional amount to the commission.

13 (f) All information, records, interviews, reports, notes,  
14 recommendations, statements, memoranda, or other document, data,  
15 or information supplied to or used by the commission in the  
16 course of its review or investigation of an application for a  
17 license under this chapter shall be:

- 18 (1) Confidential and not disclosed by the commission or  
19 its staff for any reason;
- 20 (2) Used by the commission only for the purpose of  
21 evaluating an applicant;



1 (3) Exempt from public disclosure required by chapter 92F;  
2 and

3 (4) Inadmissible as evidence and not discoverable in any  
4 action of any kind in any court or before any other  
5 tribunal, commission, agency, or person.

6 § -9 Criteria for award of a casino license. (a) The  
7 commission shall issue one casino license to operate a casino  
8 facility to the applicant that has paid the application fee  
9 required under section -8, is eligible and suitable to  
10 receive a casino license under this chapter and the rules  
11 adopted by the commission, and best satisfies all of the  
12 following criteria:

13 (1) The applicant has submitted a casino facility  
14 development plan for the casino facility that provides  
15 the greatest likelihood that the applicant's casino  
16 facility will increase tourism, generate jobs, provide  
17 revenue to the local economy, and provide revenue to  
18 the general fund;

19 (2) The applicant or its qualifiers have a history of, or  
20 a bona fide plan for, community involvement or  
21 investment in the area where the casino facility will  
22 be located;



- 1           (3) The applicant has the financial ability to purchase  
2                   and maintain adequate liability and casualty insurance  
3                   and to provide an adequate surety bond;
- 4           (4) The applicant has provided data identifying the  
5                   applicant's sources of capital and demonstrating that  
6                   the applicant has adequate capital to develop,  
7                   construct, maintain, and operate the proposed casino  
8                   facility;
- 9           (5) The applicant has adequate capitalization to develop,  
10                   construct, maintain, and operate, for the duration of  
11                   the license, the proposed casino facility in  
12                   accordance with the requirements of this chapter and  
13                   rules adopted by the commission and to responsibly pay  
14                   off its secured and unsecured debts in accordance with  
15                   its financing agreement and other contractual  
16                   obligations;
- 17           (6) The extent to which the applicant or any of its  
18                   qualifiers demonstrate that they have at least ten  
19                   years of experience in helping to revitalize an urban  
20                   area by successfully planning, developing, and opening  
21                   a land-based casino in any jurisdiction in the United  
22                   States that previously did not permit casino gaming.



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

4 (7) Neither the applicant nor any of its qualifiers have  
5 been indicted, convicted, pled guilty or nolo  
6 contendere, or forfeited bail for any felony or for a  
7 misdemeanor involving gambling, theft, or fraud;

8 (8) Neither the applicant nor any of its qualifiers,  
9 within the last ten years, have filed, or had filed  
10 against them a proceeding for bankruptcy;

11 (9) The extent to which an applicant or any of its  
12 qualifiers have, within the last five tax years, been  
13 adjudicated by a court or tribunal to have failed to  
14 pay any final amount of income, sales, or gross  
15 receipts tax due and payable under federal, state, or  
16 local law, after exhaustion of all inter-agency  
17 appeals processes;

18 (10) The extent to which the applicant meets other  
19 standards for the issuance of a casino license that  
20 the commission may have adopted by rule;

21 (11) The adequacy of the applicant's plan for training  
22 residents of the State for jobs that are available at



1 the casino facility and the extent to which the plan  
2 considers the need to provide training to low-income  
3 persons to enable those persons to qualify for jobs  
4 that will be created in the casino facility; and

5 (12) The caliber of the proposed casino gaming facility,  
6 including the proposed casino facility's aesthetic  
7 appearance, amount of economic benefit to the  
8 community, anticipated or actual number of employees,  
9 compliance with federal and state affirmative action  
10 guidelines, and projected or actual gross receipts.

11 (b) Any rules adopted pursuant to chapter 91 shall not be  
12 arbitrary, capricious, or contradictory to the expressed  
13 provisions of this chapter and shall further define and clarify  
14 the criteria listed in subsection (a) rather than create new  
15 conditions for licensure.

16 (c) An applicant shall be ineligible to receive a casino  
17 license if the applicant or any employee or qualifier of the  
18 applicant:

19 (1) Has been convicted of a felony under the laws of this  
20 State, any other state, or the United States;



1           (2) Has been convicted of any violation under part III of  
2           chapter 712, or substantially similar laws of another  
3           jurisdiction;

4           (3) Knowingly submitted an application for a license under  
5           this chapter that contains false information;

6           (4) Is a member or employee of the commission; or

7           (5) Has had revoked a license to own or operate gaming  
8           facilities in this State or any other jurisdiction.

9           (d) To demonstrate financial ability, the applicant may  
10          include the economic resources available directly or indirectly  
11          to the casino license applicant and its qualifiers.

12          (e) Simultaneous with an applicant's submission of an  
13          application, each applicant and qualifier that is a natural  
14          person shall submit to the commission on fingerprint cards  
15          issued by the Federal Bureau of Investigation or in digital  
16          format two sets of fingerprints for each applicant and  
17          qualifier.

18          (f) The commission may revoke the casino license if the  
19          licensee fails to begin regular casino gaming operations within  
20          twelve months of receipt of the commission's approval of the  
21          application or twelve months after a certificate of occupancy  
22          for the casino facility is first issued, whichever is later,



1 upon a finding by the commission that the casino license  
2 revocation is in the best interest of the State.

3 (g) The commission shall establish a process to facilitate  
4 and expedite the approval of the necessary licenses and permits.  
5 The commission may establish its own procedures for the issuance  
6 of liquor licenses for any holder of a casino license under this  
7 chapter; provided that all state laws and county ordinances  
8 relating to liquor are met.

9 (h) Nothing in this chapter shall be interpreted to  
10 prohibit a casino licensee from operating a school to train  
11 occupational licensees.

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



1 The total and aggregate liability of the surety on the bond  
2 shall be limited to the amount specified in the bond.

3 § -11 Application deficiency. (a) If, in the review of  
4 an application submitted under this chapter, the executive  
5 director identifies an apparent deficiency that, if true, would  
6 require denial of the license or the disqualification of a  
7 qualifier, the executive director shall immediately notify the  
8 affected applicant or qualifier in writing of the apparent  
9 deficiency. The applicant or qualifier may then request a  
10 confidential informal conference with the executive director to  
11 discuss the factual basis of the apparent deficiency.

12 (b) The executive director shall provide the applicant or  
13 qualifier a reasonable period of time to correct the apparent  
14 deficiency and, if the apparent deficiency is not corrected  
15 within the reasonable time period, the executive director shall  
16 find that the apparent deficiency has not been corrected.  
17 Following this finding, the affected applicant or qualifier  
18 shall have an opportunity to appeal the executive director's  
19 finding to the commission. The commission shall conduct an  
20 investigative hearing, pursuant to section -17 and in  
21 accordance with rules adopted under this chapter, to determine  
22 whether there is sufficient evidence to support an apparent



1 deficiency finding. At the hearing, the burden of proof shall  
2 be on the executive director to demonstrate that the finding of  
3 an apparent deficiency is supported by law and facts. Any  
4 finding by the commission regarding an applicant or a  
5 qualifier's apparent deficiency shall not constitute a final  
6 determination by the commission as to the suitability of the  
7 applicant to hold a license, or the suitability of a qualifier  
8 to hold an ownership interest in a casino applicant.

9 (c) At any time prior to a finding by the commission that  
10 a qualifier is unsuitable to hold an ownership interest in a  
11 casino applicant, a qualifier shall have the ability to sell its  
12 ownership interest in the casino applicant to the casino  
13 applicant, another qualifier, or a third party.

14 (d) A qualifier who has been issued a finding of an  
15 apparent deficiency shall have the right to request that the  
16 commission expand the apparent deficiency hearing under this  
17 section to include a determination of the qualifier's  
18 suitability to hold an ownership interest in the casino license  
19 applicant. If such a request is made, the commission shall  
20 determine the suitability of the affected qualifier separate  
21 from the suitability of the casino applicant and any of its  
22 other qualifiers. A request by a qualifier for an extended



1 hearing pursuant to this section shall not prevent the  
2 commission from issuing a license to the applicant. Until the  
3 commission determines that a qualifier under this section is  
4 suitable to hold an ownership interest in the casino applicant,  
5 the casino applicant or licensee shall not do any of the  
6 following:

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

11 (2) Pay any direct or indirect compensation to the  
12 qualifier for services rendered to the applicant,  
13 unless specifically approved and authorized by the  
14 commission.

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



1           (1) The securities represent a percentage of the  
2           outstanding debt of the affiliate or affiliated  
3           company not exceeding twenty per cent, or a percentage  
4           of any issue of the outstanding debt of the affiliate  
5           or affiliated company not exceeding fifty per cent;

6           (2) The securities are those of a publicly traded  
7           corporation and its holdings of those securities were  
8           purchased for investment purposes only; and

9           (3) Upon request by the commission, the institutional  
10          investor files with the commission a certified  
11          statement that it has no intention of influencing or  
12          affecting the affairs of the issuer, the casino  
13          licensee, or its affiliate or affiliated company.

14          (b) The commission may grant a waiver under this section  
15          to an institutional investor holding a higher percentage of  
16          securities than allowed in subsection (a) upon a showing of good  
17          cause and if the conditions specified in subsection (a) are met.

18          (c) An institutional investor granted a waiver under this  
19          section that subsequently intends to influence or affect the  
20          affairs of the issuer shall provide notice to the commission and  
21          file an application for a determination of eligibility and



1 suitability before taking any action that may influence or  
2 affect the affairs of the issuer.

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

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

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

17 (g) If the commission finds that an institutional  
18 investor, holding any security of an affiliate or affiliated  
19 company of a casino licensee that is related in any way to the  
20 financing of the casino licensee, fails to comply with the  
21 requirements of this section, or if at any time the commission  
22 finds that, by reason of the extent or nature of its holdings,





1 an institutional investor is in a position to exercise a  
2 substantial impact upon the controlling interests of a casino  
3 licensee, the commission may take any necessary action to  
4 protect the public interest, including requiring the  
5 institutional investor to satisfy the eligibility and  
6 suitability requirements under sections -8, -9, and  
7 -10.

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

21 (b) The holder of a supplier's license may sell or lease,  
22 or contract to sell or lease, gaming equipment and supplies to



1 any licensee involved in the ownership or management of casino  
2 gaming operations.

3 (c) Casino gaming supplies and equipment shall not be  
4 distributed unless supplies and equipment conform to standards  
5 adopted by rules of the commission.

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

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

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

14 (3) The person has knowingly submitted an application for  
15 a license under this chapter that contains false  
16 information;

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

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

21 (6) The firm or corporation employs a person, defined in  
22 paragraph (1), (2), (3), or (4), that participates in



1 the management or operation of casino gaming  
2 authorized under this chapter; or

3 (7) The license of the person, firm, or corporation issued  
4 under this chapter, or a license to own or operate  
5 casino gaming facilities in any other jurisdiction,  
6 has been revoked.

7 (e) A supplier shall:

8 (1) Furnish to the commission a list of all equipment,  
9 devices, and supplies offered for sale or lease in  
10 connection with casino games authorized under this  
11 chapter;

12 (2) Keep books and records for the furnishing of  
13 equipment, devices, and supplies to casino gaming  
14 operations separate and distinct from any other  
15 business that the supplier might operate;

16 (3) File quarterly returns with the commission listing all  
17 sales and leases;

18 (4) Permanently affix its name to all its equipment,  
19 devices, and supplies, used for casino gaming  
20 operations; and

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



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

3 (g) Any casino gaming equipment, devices, or supplies  
4 provided by any licensed supplier may either be repaired in the  
5 casino facility or be removed from the casino facility to a  
6 facility owned by the holder of a casino license for repair.  
7 Any supplier's equipment, devices, and supplies that are used by  
8 any person in an unauthorized gaming operation shall be  
9 forfeited to the county.

10 § -14 Occupational licenses. (a) The commission may  
11 issue an occupational license to an applicant upon:

- 12 (1) The payment of a nonrefundable application fee set by  
13 the commission;
- 14 (2) A determination by the commission that the applicant  
15 is eligible for an occupational license; and
- 16 (3) Payment of an annual license fee in an amount set by  
17 the commission.

18 (b) To be eligible for an occupational license, an  
19 applicant shall:

- 20 (1) Be at least twenty-one years of age if the applicant  
21 performs any function involved in casino gaming by  
22 patrons. Any applicant seeking an occupational



1 license for a non-gaming function shall be at least  
2 eighteen years of age;

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

6 (3) Have met standards for the holding of an occupational  
7 license as provided in rules adopted by the  
8 commission, including background inquiries and other  
9 requirements.

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

14 (1) Has been issued prior gaming-related licenses in any  
15 jurisdiction;

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

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



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

6 (e) The commission may refuse to grant an occupational  
7 license to any person:

8 (1) Who is unqualified to perform the duties required of  
9 the applicant;

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

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

17 (4) For any other just cause.

18 (f) The commission may suspend, revoke, or restrict any  
19 occupational licensee:

20 (1) For any violation of this chapter;

21 (2) For any violation of the rules of the commission;



1           (3) For any cause which, if known to the commission, would  
2           have disqualified the applicant from receiving a  
3           license;

4           (4) For default in the payment of any obligation or debt  
5           due to the State or the county; or

6           (5) For any other just cause.

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

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

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

17          § -15 Temporary supplier and occupational licenses. (a)  
18          Upon written request of a person applying for a supplier or  
19          occupational license under this chapter, the executive director  
20          shall issue a temporary license to the applicant and permit the  
21          applicant to undertake employment with, conduct business  
22          transactions with, and provide goods and services to, casino



1 licensees, casino license applicants, and holders of  
2 certificates of suitability, provided that all of the following  
3 provisions are met:

4 (1) The applicant has submitted to the commission a  
5 completed application, an application fee, and all  
6 required disclosure forms and other required written  
7 documentation and materials;

8 (2) Preliminary review of the application and a criminal  
9 history check by the executive director and the  
10 commission staff does not reveal that the applicant or  
11 the applicant's affiliates, key persons, local and  
12 regional managerial employees or sales and service  
13 representatives, or substantial owners have been  
14 convicted of a felony or misdemeanor that would  
15 require denial of the application or may otherwise be  
16 ineligible, unqualified, or unsuitable to permit  
17 licensure under this chapter;

18 (3) There is no other apparent deficiency in the  
19 application that may require denial of the  
20 application; and

21 (4) The applicant has an offer of employment from, or  
22 agreement to begin providing goods and services to, a





1 casino licensee, casino license applicant, or holder  
2 of a certificate of suitability upon receipt of the  
3 temporary license or the applicant shows good cause  
4 for being granted a temporary license.

5 (b) A temporary license issued under this section shall be  
6 valid for not more than one hundred and eighty days, but may be  
7 renewed upon expiration by the executive director.

8 (c) An applicant who receives a temporary license under  
9 this section may undertake employment with or supply a casino  
10 licensee, casino license applicants, and holders of certificates  
11 of suitability with goods and services subject to this chapter  
12 until a license is issued by the commission pursuant to the  
13 applicant's application or until the temporary license expires  
14 or is suspended or revoked. During the period of the temporary  
15 license, the applicant shall comply with this chapter and rules  
16 adopted by the commission.

17 (d) If the temporary license expires, is not renewed, or  
18 is suspended or revoked, the executive director shall  
19 immediately forward the applicant's application to the  
20 commission for action after first providing a reasonable time  
21 for the applicant to correct any apparent deficiency in its  
22 application.



1           §   -16   Annual report.  The commission shall file a  
2 written annual report with the governor and the legislature at  
3 least sixty days prior to the close of each fiscal year and  
4 shall file any additional reports that the governor or the  
5 legislature requests.  The annual report shall include:

6           (1)  A statement of receipts and disbursements related to  
7                casino gaming pursuant to this chapter;

8           (2)  Actions taken by the commission; and

9           (3)  Any additional information and recommendations that  
10               the commission may deem valuable or which the governor  
11               or the legislature may request.

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

21           (b)  Any party aggrieved by an action of the commission  
22 denying, suspending, revoking, restricting, or refusing to renew



1 a license under this chapter may request in writing a hearing  
2 before the commission within five days after service of notice  
3 of the action of the commission. Notice of the actions of the  
4 commission shall be served either by personal delivery or by  
5 certified mail, postage prepaid, to the aggrieved party. Notice  
6 served by certified mail shall be deemed complete on the  
7 business day following the date of the mailing. The commission  
8 shall conduct all requested hearings promptly and in reasonable  
9 order.

10 § -18 Conduct of casino gaming. Casino gaming may be  
11 conducted by the holder of a casino license, subject to the  
12 following:

13 (1) The site of the casino facility shall be restricted to  
14 the Waikiki area on the island of Oahu;

15 (2) The casino facility shall be a stand-alone facility  
16 and shall not be located within a hotel;

17 (3) The term of the casino license shall be ten years and  
18 shall be renewable for additional ten-year terms  
19 provided that:

20 (A) The casino facility has demonstrated an effort to  
21 increase tourism, generate jobs, provide revenue



1 to the local economy, and provide revenue to the  
2 general fund;

3 (B) The casino licensee's actions have not caused the  
4 casino license under this chapter to be suspended  
5 or revoked; and

6 (C) The applicant and its qualifiers remain eligible  
7 and suitable for a casino license;

8 (4) The casino facility may operate twenty-four hours per  
9 day, each and every day of the year;

10 (5) Minimum and maximum wagers on games shall be set by  
11 the casino licensee;

12 (6) The commission's agents may enter and inspect the  
13 casino facility at any time for the purpose of  
14 determining whether the casino licensee is in  
15 compliance with this chapter;

16 (7) Commission employees shall have the right to be  
17 present in a casino facility or on adjacent facilities  
18 under the control of the casino licensee;

19 (8) Gaming equipment and supplies customarily used in  
20 conducting casino gaming shall be purchased or leased  
21 only from suppliers licensed under this chapter;



- 1           (9) Persons licensed under this chapter shall permit no  
2           form of wagering on games except as permitted by this  
3           chapter;
- 4           (10) 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           (11) Wagering shall not be conducted with money or other  
10          negotiable currency, except for wagering on slot  
11          machines;
- 12          (12) No person under age twenty-one shall be permitted in  
13          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          (13) All tokens, chips, or electronic cards used to make  
21          wagers shall only be purchased from the casino  
22          licensee within the casino facility. The tokens,



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

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

10 § -19 Collection of amounts owing under credit

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

17 § -20 Wagering tax; rate; disposition. A wagering tax

18 shall be imposed on the monthly gross receipts received from  
19 casino gaming authorized under this chapter at the rate of six  
20 and three-fourths per cent. The wagering tax imposed by this  
21 section shall be in lieu of all other state taxes on gross or  
22 adjusted gross receipts, including taxes levied under chapters



1 237 and 239, except income taxes. Tax revenues collected under  
 2 this section shall be deposited into the state general fund;  
 3 provided that the following amounts shall be retained by the  
 4 commission and deposited into the state gaming fund for use by  
 5 the commission as follows:

- 6 (1) One per cent of the tax revenues to fund a compulsive  
 7 gamblers program and for public security at the casino  
 8 facility; and
- 9 (2) Not more than one per cent of the tax revenues to fund  
 10 administrative expenses of the commission.

11 § -21 State gaming fund; disposition of taxes collected.

12 There is established within the state treasury the state gaming  
 13 fund to be administered by the Hawaii gaming control commission  
 14 into which shall be deposited all fees, taxes, and fines  
 15 collected under this chapter other than the wagering tax  
 16 collected pursuant to section -20. Moneys from the state  
 17 gaming fund shall be used to fund:

- 18 (1) A compulsive gamblers program and for public security  
 19 at the casino facility; and
- 20 (2) Administrative expenses of the commission.

21 § -22 Legislative oversight. After the first full  
 22 fiscal year of operation, the auditor shall conduct a program



1 and financial audit of the Hawaii gaming commission.

2 Thereafter, the auditor shall conduct a program and financial  
3 audit every four years after the initial audit is completed.

4 § -23 Compulsive gamblers program. The commission shall  
5 create and implement a program to assist individuals who are  
6 identified as compulsive gamblers.

7 § -24 Disclosure of information. (a) Except as  
8 otherwise provided in this chapter, all information, records,  
9 interviews, reports, statements, memoranda, or other data  
10 supplied to or used by the commission shall be subject to  
11 chapter 92F; provided that the following shall be exempt from  
12 disclosure under chapter 92F:

- 13 (1) All information, records, interviews, reports,  
14 statements, memoranda, or other data supplied to or  
15 used by the commission that have been received from  
16 another jurisdiction or local, state, or federal  
17 agency;
- 18 (2) All information provided in an application for a  
19 license required under this chapter; and
- 20 (3) All information, records, interviews, reports, notes,  
21 recommendations, statements, memoranda, or other  
22 document, data, or information disclosed to the





1           commission by a licensee that is identified by the  
2           licensee as confidential, proprietary, or a trade  
3           secret by the licensee notating "Confidential" on the  
4           first page of that disclosure.

5           (b) Notwithstanding subsection (a), the commission, upon  
6           written request from any person, shall provide the following  
7           information concerning the applicant or licensee, the  
8           applicant's or licensee's products, services or gambling  
9           enterprises, and the applicant's or licensee's business holdings  
10          if the commission has the information in its possession:

11          (1) The name, business address, and business telephone  
12          number;

13          (2) An identification of any applicant or licensee  
14          including, if an applicant or licensee is not an  
15          individual, its state of incorporation or  
16          registration, its corporate officers, and the identity  
17          of its qualifiers;

18          (3) The name and business telephone number of any  
19          attorney, counsel, lobbyist, or any other person  
20          representing an applicant or licensee in matters  
21          before the commission; and



1 (4) A description of the product or service to be supplied  
2 by, or occupation to be engaged in by, a licensee."

3 SECTION 2. Chapter 712, Hawaii Revised Statutes, is  
4 amended by adding a new section to part III to be appropriately  
5 designated and to read as follows:

6 "§712- Casino gaming; exempted. This part shall not  
7 apply to casino gaming as authorized by chapter ."

8 SECTION 3. There is appropriated out of the general  
9 revenues of the State of Hawaii the sum of \$5,000,000 or so much  
10 thereof as may be necessary for fiscal year 2011-2012 for the  
11 purpose of funding the operations of the Hawaii gaming control  
12 commission; provided that the:

13 (1) Casino licensee shall reimburse the amount  
14 appropriated by remitting \$5,000,000 to the director  
15 of finance no later than the first day on which the  
16 casino opens for operation;

17 (2) Casino licensee's application fee under section  
18 -8(e), Hawaii Revised Statutes, shall be applied as  
19 a credit against the \$5,000,000 amount due under this  
20 section; and

21 (3) Amount the casino licensee reimburses the State under  
22 this section shall also be credited against the



# H.B. NO. 781

1           wagering tax imposed under section     -20, Hawaii  
 2           Revised Statutes.

3           The sum appropriated shall be expended by the department of  
 4 business, economic development, and tourism for the purposes of  
 5 this Act.

6           SECTION 4.   New statutory material is underscored.

7           SECTION 5.   This Act shall take effect on July 1, 2011.

8

INTRODUCED BY:           *Calvin K. Aoy*            
BY REQUEST

JAN 21 2011



**Report Title:**

Stand-Alone Casino Gaming; Waikiki

**Description:**

Grants 10-year license for 1 stand-alone casino in Waikiki not in a hotel. Establishes Hawaii gaming control commission. Imposes 6.75% wagering tax on gross receipts. Creates state gaming fund and compulsive gambler program.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

