
A BILL FOR AN ACT

RELATING TO ECONOMIC DEVELOPMENT.

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

PART I

1
2 SECTION 1. The legislature finds that tourism is still the
3 number one industry in Hawaii because no other industry can
4 readily match its capacity to generate continuing revenue. But
5 Hawaii's struggle in recent years to remain competitive with
6 other "sun and sand" resort destinations has challenged the
7 legislature to look beyond traditional means to attract mainland
8 and global visitors. The State must also raise its profile
9 through earned media marketing with events that will not only
10 help draw more visitors to Hawaii but also provide free exposure
11 for Hawaii to overseas markets. With recession lingering in the
12 global economy and recent unrest in the Middle East, air travel
13 costs remain volatile and continue to trend upward. In
14 addition, the recent earthquake and tsunami in Japan may result
15 in the loss of approximately twenty per cent of the visitor
16 market. Accordingly, the State must find new ways to attract
17 visitors from the mainland United States and other parts of
18 Asia.



1 The legislature also finds that one way to attract visitors
2 is to host peer-to-peer poker tournaments or championship series
3 in Hawaii. Experience in other markets demonstrates that many
4 poker tournaments and championship series fill hotel rooms for
5 the duration of the tournaments, which run for several weeks at
6 a time, with participants, their families, and supporters, as
7 well as poker aficionados. Furthermore, these events are
8 televised nationally and internationally to large audiences and
9 include scenic shots and other coverage of local attractions.
10 This coverage provides free advertising and exposes these areas
11 to a worldwide audience. Organizers of these peer-to-peer poker
12 tournaments and championship series are eager to hold such
13 events in Hawaii. Like traditional poker events in Las Vegas
14 and other places, these games are played between human players
15 without a house running the game. However, these games are not
16 allowed under current Hawaii law because they are classified as
17 games of chance, rather than games of skill, and are held in
18 venues that are open to the public.

19 The purpose of this part is to authorize peer-to-peer games
20 of skill and thereby to bolster the State's economy.



1 SECTION 2. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER A

5 PEER-TO-PEER ENTERTAINMENT

6 §A-1 Limited peer-to-peer entertainment authorized. Peer-
7 to-peer entertainment and a system of wagering incorporated
8 therein, as defined in this chapter, are authorized only to the
9 extent that peer-to-peer entertainment and wagering is conducted
10 in accordance with this chapter.

11 §A-2 Definitions. As used in this chapter, unless the
12 context clearly requires otherwise:

13 "Chairperson" means the member of the Hawaii peer-to-peer
14 entertainment commission selected by the other members of the
15 Hawaii peer-to-peer entertainment commission.

16 "Commission" means the Hawaii peer-to-peer entertainment
17 commission.

18 "Contest of skill" has the same meaning as defined in
19 section 712-1220.

20 "Department" means the department of business, economic
21 development, and tourism.



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

3 "Peer-to-peer entertainment" means the games of poker known
4 as "Texas Hold 'em" and "Omaha" and other contests of skill
5 authorized by the commission and conducted in a manner by which:

6 (1) Each player receives the player's personal winnings
7 from the game;

8 (2) No other person or entity derives any proceeds based
9 on the outcome of the game; and

10 (3) Play by computer, computer software, or other
11 inanimate device, directly or indirectly, is
12 prohibited.

13 **§A-3 Hawaii peer-to-peer entertainment commission. (a)**

14 There is established the Hawaii peer-to-peer entertainment
15 commission, which shall be a body corporate and a public
16 instrumentality of the State for the purpose of implementing
17 this chapter. The commission shall be placed within the
18 department of business, economic development, and tourism for
19 administrative purposes. The commission shall consist of seven
20 members to be appointed by the governor with the advice and
21 consent of the senate under section 26-34. Of the seven
22 members, two shall be appointed from a list of nominees



1 submitted by the president of the senate and two shall be
2 appointed from a list of nominees submitted by the speaker of
3 the house of representatives. All appointments to the
4 commission shall be made within sixty days of the effective date
5 of this Act.

6 (b) No person shall be appointed as a member of the
7 commission or continue to be a member of the commission if the
8 person:

- 9 (1) Is an elected state official;
- 10 (2) Is licensed by the commission pursuant to chapter B,
11 or is an official of, has a financial interest in, or
12 has a financial relationship with, any peer-to-peer
13 entertainment operation subject to the jurisdiction of
14 this commission pursuant to this chapter;
- 15 (3) Is related to any person within the second degree of
16 consanguinity or affinity who is licensed by the
17 commission pursuant to chapter B; or
- 18 (4) Has been under indictment, convicted, pled guilty or
19 nolo contendere, or forfeited bail for a felony or a
20 misdemeanor involving gambling or fraud under the laws
21 of this State, any other state, or the United States
22 within the ten years prior to appointment or a local



1 ordinance in a state involving gambling or fraud that
2 substantially corresponds to a misdemeanor in that
3 state within the ten years prior to appointment.

4 (c) The term of office of a commission member shall be
5 five years. Vacancies in the commission shall be filled for the
6 unexpired term in like manner as the original appointments.

7 (d) The president of the senate or the speaker of the
8 house of representatives may request that the governor remove or
9 suspend a member of the commission who is nominated by the
10 president of the senate or the speaker of the house of
11 representatives. Upon receipt of a request from the president
12 of the senate or the speaker of the house of representatives,
13 and after due notice and public hearing, the governor may remove
14 or suspend for cause any member of the commission.

15 (e) Members of the commission shall:

16 (1) Be a resident of the State;

17 (2) Serve part-time;

18 (3) Be paid compensation of \$ for each day in the
19 performance of official duties; and

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



1 (f) Officers of the commission, including the chairperson,
2 shall be selected by the members. The commission, subject to
3 chapter 92, shall hold at least one meeting in each quarter of
4 the State's fiscal year. Special meetings may be called by the
5 chairperson or any four members upon seventy-two hours written
6 notice to each member. Four members shall constitute a quorum,
7 and a majority vote of the members present shall be required for
8 any final determination by the commission. The commission shall
9 keep a complete and accurate record of all its meetings.

10 (g) Before assuming the duties of office, each member of
11 the commission shall take an oath that the member shall
12 faithfully execute the duties of office according to the laws of
13 the State and shall file and maintain with the director a bond
14 in the sum of \$25,000 with good and sufficient sureties. The
15 cost of any bond for any member of the commission under this
16 section shall be considered a part of the necessary expenses of
17 the commission.

18 (h) The commission shall appoint a person to serve as the
19 executive director of the commission and who shall be subject to
20 the commission's supervision. The executive director shall:

21 (1) Hold office at the will of the commission;

22 (2) Be exempt from chapters 76 and 89;



- 1 (3) Devote full time to the duties of the office;
- 2 (4) Not hold any other office or employment;
- 3 (5) Perform any and all duties that the commission
- 4 assigns;
- 5 (6) Receive an annual salary at an amount set by the
- 6 commission and be reimbursed for expenses actually and
- 7 necessarily incurred in the performance of the
- 8 executive director's duties.

9 (i) Except as otherwise provided by law, the executive
10 director may:

- 11 (1) Hire assistants, other officers, and employees, who
- 12 shall be exempt from chapters 76 and 89 and who shall
- 13 serve at the will of the executive director; and
- 14 (2) Appoint committees and consultants necessary for the
- 15 efficient regulation of peer-to-peer entertainment
- 16 events; provided that no person shall be hired or
- 17 appointed under this subsection who:
 - 18 (A) Is an elected state official;
 - 19 (B) Is licensed by the commission pursuant to
 - 20 chapter B or is an official of, has a financial
 - 21 interest in, or has a financial relationship
 - 22 with, any peer-to-peer entertainment operation



1 subject to the jurisdiction of this commission
2 pursuant to this chapter;

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

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

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

17 (k) The commission shall adopt rules in accordance with
18 chapter 91 establishing a code of ethics for its employees that
19 includes restrictions on which employees are prohibited from
20 participating in or wagering on any peer-to-peer entertainment
21 operation subject to the jurisdiction of the commission. The



1 code of ethics shall be separate from and in addition to any
2 standards of conduct set forth pursuant to chapter 84.

3 (1) No person shall be employed by the commission if:

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

7 (A) A licensee under chapter B or a gaming licensee
8 in another jurisdiction; or

9 (B) A potential licensee who had an application for a
10 license to operate an internet peer-to-peer
11 entertainment operation pursuant to chapter B
12 pending before the commission or for a gaming
13 license in any other jurisdiction;

14 except that the person seeking employment may be
15 employed by the commission if the person's interest in
16 any operator of peer-to-peer entertainment events or
17 licensee under chapter B would not, in the opinion of
18 the commission, interfere with the objective discharge
19 of the person's employment obligations. A person
20 shall not be employed by the commission if the
21 person's interest in the licensee constitutes a
22 controlling interest in that licensee; or



1 (2) The person or the person's spouse, parent, child,
2 child's spouse, or sibling, is a member of the
3 commission, or a director of, or a person financially
4 interested in, any person licensed pursuant to
5 chapter B, or any person who has an application for a
6 license pursuant to chapter B pending before the
7 commission.

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

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

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

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

18 (n) Each employee of the commission, except the executive
19 director or a key employee, shall file with the commission at
20 the time of employment a financial disclosure statement listing
21 all assets, liabilities, property and business interests, and
22 sources of income of the employee and the employee's spouse.



1 (o) A member of the commission, executive director, or key
2 employee shall not hold direct or indirect interest in, be
3 employed by, or enter into a contract for service with, any
4 applicant or person approved by the commission pursuant to
5 operate a peer-to-peer entertainment event pursuant to this
6 chapter or with any applicant or person licensed by the
7 commission pursuant to chapter B for a period of five years
8 after the date of termination of the person's membership on or
9 employment with the commission.

10 (p) An employee of the commission shall not acquire any
11 direct or indirect interest in, be employed by, or enter into a
12 contract for services with any applicant or person approved by
13 the commission pursuant to operate a peer-to-peer entertainment
14 event pursuant to this chapter or with any chapter B applicant
15 or person licensed by the commission pursuant to chapter B for a
16 period of three years after the date of termination of the
17 person's employment with the commission.

18 (q) A commission member or a person employed by the
19 commission shall not represent a person or party other than the
20 State before or against the commission for a period of three
21 years after the date of termination of the member's term of



1 office or the employee's period of employment with the
2 commission.

3 (r) A business entity in which a former commission member
4 or employee or agent has an interest, or any partner, officer,
5 or employee of the business entity, shall not make any
6 appearance or representation before the commission that is
7 prohibited to that former member, employee, or agent. As used
8 in this subsection, "business entity" means a corporation,
9 limited liability company, partnership, limited liability
10 partnership association, trust, or other form of legal entity.

11 **SA-4 Staff.** (a) The executive director shall keep
12 records of all proceedings of the commission and shall preserve
13 all records, books, documents, and other papers belonging to the
14 commission or entrusted to its care relating to peer-to-peer
15 entertainment.

16 (b) In addition to persons hired under section A-3(i) the
17 commission may employ any personnel that may be necessary to
18 carry out its duties related to a peer-to-peer entertainment
19 operation.

20 **SA-5 Powers of the commission.** The commission shall have
21 all powers necessary to fully and effectively supervise all



1 peer-to-peer entertainment events pursuant to this chapter,
2 including the power to:

3 (1) Determine what contests of skill may be conducted as
4 peer-to-peer entertainment;

5 (2) Authorize operation of large scale, peer-to-peer
6 entertainment events at commercial venues, issue
7 permits, and establish and collect fees for these
8 permits;

9 (3) Provide for the collection of all fees imposed and to
10 collect, receive, expend, and account for all revenues
11 derived from the operation of peer-to-peer
12 entertainment events;

13 (4) Investigate alleged violations and take appropriate
14 disciplinary action against operators of peer-to-peer
15 entertainment events for violations of this chapter or
16 rules adopted by the commission, or institute
17 appropriate legal action for enforcement, or both;

18 (5) Administer, regulate, and enforce the provisions of
19 this chapter relating to peer-to-peer entertainment
20 events. The commission's jurisdiction shall extend to
21 every person, association, corporation, partnership,
22 trust, and any other entity with a financial interest



1 in or holding a permit to operate a peer-to-peer
2 entertainment event, or otherwise subject to the
3 requirements of this chapter;

4 (6) Enter at any time without a warrant and without notice
5 the premises, offices, facility, or other places of
6 business of an operator of peer-to-peer entertainment
7 events authorized by this chapter where evidence of
8 the compliance or noncompliance with this chapter or
9 rules is likely to be found. Entry is authorized to:

10 (A) Inspect and examine all premises wherein peer-to-
11 peer entertainment events are being conducted, or
12 where any records of those activities are
13 prepared;

14 (B) Inspect, examine, audit, impound, seize, or
15 assume physical control of, or summarily remove
16 from the premises all books, ledgers, documents,
17 writings, photocopies of correspondence records,
18 videotapes, including electronically stored
19 records, money receptacles, other containers and
20 their contents, equipment in which the records
21 are stored, or other peer-to-peer entertainment



1 related equipment and supplies on or around the
2 premises, including counting rooms;

3 (C) Inspect the person and inspect, examine, and
4 seize personal effects present in a business
5 operating peer-to-peer entertainment events
6 pursuant to this chapter; and

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

9 (7) Be present, through its inspectors and agents, any
10 time peer-to-peer entertainment events are conducted
11 in any venue for the purpose of certifying compliance
12 with this chapter and applicable rules, receiving
13 complaints from the public, and conducting other
14 investigations into the conduct of peer-to-peer
15 entertainment events as from time to time the
16 commission may deem necessary and proper;

17 (8) Conduct hearings, issue subpoenas for the attendance
18 of witnesses and subpoenas duces tecum for the
19 production of books, records, and other pertinent
20 documents, and to administer oaths and affirmations to
21 the witnesses, when, in the judgment of the
22 commission, it is necessary to administer or enforce



1 this chapter. The executive director or the executive
2 director's designee is also authorized to issue
3 subpoenas and to administer oaths and affirmations to
4 witnesses;

5 (9) Eject or exclude, or authorize the ejection or
6 exclusion of, any person from facilities in which
7 peer-to-peer entertainment events are being conducted
8 pursuant to this chapter if the person is in violation
9 of this chapter or the person's conduct or reputation
10 is such that the person's presence within a facility,
11 in the opinion of the commission, may call into
12 question the honesty and integrity of the peer-to-peer
13 entertainment event or interfere with the orderly
14 conduct thereof or any other action that, in the
15 opinion of the commission, is a detriment or
16 impediment to the peer-to-peer entertainment event;
17 provided that the propriety of that ejection or
18 exclusion shall be subject to subsequent hearing by
19 the commission;

20 (10) Permit peer-to-peer entertainment events authorized
21 pursuant to this chapter to use a wagering system



1 whereby wagerers' money may be converted to tokens,
2 electronic cards, or chips;
3 (11) Impose and collect fines of up to \$50,000 against
4 individuals and up to \$100,000 for each violation of
5 this chapter, any rules adopted by the commission, or
6 for any other action that, in the commission's
7 discretion, is a detriment or impediment to peer-to-
8 peer entertainment events; and

9 (12) Delegate the execution of any of its powers for the
10 purpose of administering and enforcing this chapter.

11 **SA-6 Member, employee, or agent of commission; conduct**
12 generally. (a) By January 31 of each year, each member of the
13 commission shall prepare and file with the commission, a
14 disclosure form in which the member shall:

15 (1) Affirm that the member or the member's spouse, parent,
16 child, or child's spouse is not a member of the board
17 of directors of, financially interested in, or
18 employed by an operator of peer-to-peer entertainment
19 events or a licensee, or applicant for a license,
20 pursuant to chapter B;



- 1 (2) Affirm that the member continues to meet all other
- 2 criteria for commission membership under this chapter
- 3 or the rules adopted by the commission;
- 4 (3) Disclose any legal or beneficial interest in any real
- 5 property that is or may be directly or indirectly
- 6 involved with peer-to-peer entertainment events
- 7 authorized by this chapter or peer-to-peer internet
- 8 entertainment authorized by chapter B; and
- 9 (4) Disclose any other information that may be required to
- 10 ensure that the integrity of the commission and its
- 11 work is maintained.
- 12 (b) By January 31 of each year, each employee of the
- 13 commission shall prepare and file with the commission a
- 14 disclosure form in which the employee shall:
- 15 (1) Affirm the absence of financial interests prohibited
- 16 by this chapter;
- 17 (2) Disclose any legal or beneficial interests in any real
- 18 property that is or that may be directly or indirectly
- 19 involved with an operator of peer-to-peer
- 20 entertainment events authorized by this chapter or
- 21 peer-to-peer internet entertainment authorized by
- 22 chapter B;



- 1 (3) Disclose whether the employee or the employee's
2 spouse, parent, child, or child's spouse is
3 financially interested in or employed by an operator
4 peer-to-peer entertainment events authorized by this
5 chapter or peer-to-peer internet entertainment
6 authorized by chapter B; and
- 7 (4) Disclose any other information that may be required to
8 ensure that the integrity of the commission and its
9 work is maintained.
- 10 (c) A member, employee, or agent of the commission who
11 becomes aware that the member, employee, or agent of the
12 commission or their spouse, parent, or child is a member of the
13 board of directors of, financially interested in, or employed by
14 an operator of peer-to-peer entertainment events authorized by
15 this chapter or by a licensee, or an applicant for a license,
16 pursuant to chapter B shall immediately provide detailed written
17 notice to the chairperson.
- 18 (d) A member, employee, or agent of the commission who has
19 been indicted, charged with, convicted of, pled guilty or nolo
20 contendere to, or forfeited bail for:
- 21 (1) A misdemeanor involving gambling, dishonesty, theft,
22 or fraud;



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

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

7 shall immediately provide detailed written notice of the
8 conviction or charge to the chairperson.

9 (e) A member, employee, or agent of the commission, or
10 former member, employee, or agent of the commission, shall not
11 disseminate or otherwise disclose any material or information in
12 the possession of the commission that the commission considers
13 confidential, unless specifically authorized to do so by the
14 chairperson or the commission.

15 (f) A member, employee, or agent of the commission shall
16 not engage in any conduct that constitutes a conflict of
17 interest and shall immediately advise the chairperson, in
18 writing, of the details of any incident or circumstances that
19 would present the existence of a conflict of interest with
20 respect to the performance of commission-related work or duty of
21 the member, employee, or agent of the commission.



1 (g) A member, employee, or agent of the commission who is
2 approached and offered a bribe in violation of this chapter
3 shall immediately provide a written account of the details of
4 the incident to the chairperson and to a law enforcement officer
5 of a law enforcement agency having jurisdiction.

6 (h) A member, employee, or agent of the commission shall
7 not engage in political activity or politically-related activity
8 during the duration of the person's appointment or employment.

9 (i) A former member, employee, or agent of the commission
10 may appear before the commission as a witness testifying as to
11 factual matters or actions handled by the member, employee, or
12 agent during the person's tenure as a member, employee, or agent
13 of the commission. The member, employee, or agent of the
14 commission shall not receive compensation for such an appearance
15 other than a standard witness fee and reimbursement for travel
16 expenses as established by statute or court rule.

17 (j) No member, employee, or agent of the commission may
18 participate in or wager on any peer-to-peer entertainment event
19 authorized by this chapter or conducted by any licensee,
20 applicant for a license, or any affiliate of a licensee or an
21 applicant for a license under chapter B, except that the member,
22 employee, or agent of the commission may participate in and



1 wager on a peer-to-peer entertainment event conducted by a
2 licensee under this chapter, to the extent authorized by the
3 chairperson or commission as part of the person's surveillance,
4 security, or other official duties for the commission.

5 (k) Violation of this section by a member of the
6 commission may result in disqualification or constitute cause
7 for removal or other disciplinary action as determined by the
8 commission.

9 (l) A violation of this section by an employee or agent of
10 the commission shall not result in termination of employment or
11 require other disciplinary action if the commission determines
12 that the conduct involved does not violate the purpose of this
13 chapter.

14 (m) Violation of this section shall not create a civil
15 cause of action.

16 (n) As used in this section, "political activity" or
17 "politically related activity" includes any of the following:

- 18 (1) Using the person's official authority or influence for
19 the purpose of interfering with or affecting the
20 result of an election;
- 21 (2) Knowingly soliciting, accepting, or receiving
22 political contributions from any person;



- 1 (3) Running for nomination or as a candidate for election
2 to a partisan political office; or
- 3 (4) Knowingly soliciting or discouraging the participation
4 in any political activity of any person who is:
- 5 (A) Applying for any compensation, grant, contract,
6 ruling, license, permit, or certificate pending
7 before the commission; or
- 8 (B) The subject of or a participant in an ongoing
9 audit, investigation, or enforcement action being
10 carried out by the commission.

11 §A-7 Rules. The commission shall adopt rules pursuant to
12 chapter 91 necessary to govern, restrict, approve, or regulate
13 the peer-to-peer entertainment events authorized by this
14 chapter, including but not limited to those that:

- 15 (1) Establish a permit fee for each peer-to-peer
16 entertainment event not to exceed \$;
- 17 (2) Require applicants for a permit to operate a peer-to-
18 peer entertainment event to possess current federal
19 and state tax clearances;
- 20 (3) Address the requirements for a peer-to-peer
21 entertainment events venue, including that it is open
22 to the public, is capable of accommodating a specified



- 1 minimum number of persons, and meets all applicable
2 state and county code requirements;
- 3 (4) Specify a minimum number of participants in a peer-to-
4 peer entertainment event and a maximum limit on the
5 duration of the event;
- 6 (5) Establish minimum levels of insurance to be obtained
7 by applicants for a permit to operate a peer-to-peer
8 entertainment event; and
- 9 (6) Promote the safety, security, and integrity of the
10 peer-to-peer entertainment events authorized in this
11 chapter;

12 provided that nothing in this chapter or the rules shall be
13 construed to permit the establishment of a casino, card room, or
14 similar operation on either an occasional or ongoing basis."

15 SECTION 3. Section 712-1220, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§712-1220 Definitions of terms in this part. In this
18 part, unless a different meaning plainly is required, the
19 following definitions apply.

20 [~~1~~] "Advance gambling activity" [~~—A person "advances~~
21 ~~gambling activity" if he engages]~~ means to engage in conduct
22 that materially aids any form of gambling activity. Conduct of



1 this nature includes but is not limited to conduct directed
2 toward ~~the~~ :

3 (1) The creation or establishment of the particular game,
4 contest, scheme, device, or activity involved [~~toward~~
5 ~~the~~] ;

6 (2) The acquisition or maintenance of premises,
7 paraphernalia, equipment, or apparatus therefor [~~toward~~
8 ~~the~~] ;

9 (3) The solicitation or inducement of persons to
10 participate therein [~~toward the~~] ;

11 (4) The actual conduct of the playing phases thereof [~~toward~~
12 ~~the~~] ;

13 (5) The arrangement of any of its financial or recording
14 phases [~~or toward any~~] ; or

15 (6) Any other phase of its operation. A person advances
16 gambling activity if, having substantial proprietary
17 control or other authoritative control over premises
18 being used with [~~his~~] the person's knowledge for
19 purposes of gambling activity, [~~he~~] the person permits
20 that activity to occur or continue or makes no effort
21 to prevent its occurrence or continuation. A person



1 advances gambling activity if ~~he~~ the person plays or
2 participates in any form of gambling activity.

3 ~~(2)~~ "Bookmaking" means advancing gambling activity by
4 accepting bets from members of the public upon the outcomes of
5 future contingent events~~[-]~~; provided that accepting wagers
6 placed during the course of peer-to-peer entertainment does not
7 constitute bookmaking.

8 ~~(3)~~ "Contest of chance" means any contest, game, gaming
9 scheme, or gaming device in which the outcome depends ~~in a~~
10 ~~material degree~~ predominantly upon an element of chance,
11 notwithstanding that skill of the contestants may also be a
12 factor therein.

13 "Contest of skill" means any contest, game, gaming scheme,
14 or gaming device in which the outcome depends predominantly upon
15 the skill of the contestants, notwithstanding that an element of
16 chance may also be a factor therein; provided that no contest,
17 game, gaming scheme, or gaming device shall be deemed a "contest
18 of skill" unless approved as such by the peer-to-peer
19 entertainment commission pursuant to chapters A and 91.

20 ~~(4)~~ "Gambling" ~~[-. A person engages in gambling if he]~~
21 means conduct by which a person stakes or risks something of
22 value upon the outcome of a contest of chance or a future



1 contingent event not under [~~his~~] the person's control or
2 influence, upon an agreement or understanding that [~~he~~] the
3 person or someone else will receive something of value in the
4 event of a certain outcome. Gambling does not include peer-to-
5 peer entertainment, bona fide business transactions valid under
6 the law of contracts, including but not limited to contracts for
7 the purchase or sale at a future date of securities or
8 commodities, and agreements to compensate for loss caused by the
9 happening of chance, including but not limited to contracts of
10 indemnity or guaranty and life, health, or accident insurance.

11 [~~5~~] "Gambling device" means any device, machine,
12 paraphernalia, or equipment that is used or usable in the
13 playing phases of any gambling activity, whether that activity
14 consists of gambling between persons or gambling by a person
15 involving the playing of a machine. However, devices, machines,
16 paraphernalia, or equipment used in peer-to-peer entertainment
17 conducted pursuant to chapters A and B; lottery tickets; and
18 other items used in the playing phases of lottery schemes are
19 not gambling devices within this definition.

20 [~~6~~] "Lottery" means a gambling scheme in which:

21 [~~a~~] (1) The players pay or agree to pay something of
22 value for chances, represented and differentiated by



1 numbers or by combinations of numbers or by some other
2 medium, one or more of which chances are to be
3 designated the winning ones; [and]

4 [~~(b)~~] (2) The winning chances are to be determined by a
5 drawing or by some other method based on an element of
6 chance; and

7 [~~(c)~~] (3) The holders of the winning chances are to
8 receive something of value.

9 [~~(7)~~] "Mutuel" means a form of lottery in which the winning
10 chances or plays are not determined upon the basis of a drawing
11 or other act on the part of persons conducting or connected with
12 the scheme, but upon the basis of the outcome or outcomes of a
13 future contingent event or events otherwise unrelated to the
14 particular scheme.

15 "Peer-to-peer entertainment" means the contests of skill
16 authorized by the peer-to-peer entertainment commission pursuant
17 to this chapter and that are conducted in a manner by which:

18 (1) Each player receives the player's personal winnings
19 from the game;

20 (2) No other person or entity derives any proceeds based
21 on the outcome of the game; and



1 (3) Play by computer, computer software, or inanimate
2 device, directly or indirectly, is prohibited.

3 ~~[(8)]~~ "Player" means a person who engages in gambling or
4 peer-to-peer entertainment solely as a contestant or bettor.

5 ~~[(9)]~~ "Profit from gambling activity" [~~— A person "profits~~
6 ~~from gambling activity" if he accepts or receives~~] means to
7 accept or receive money or other property pursuant to an
8 agreement or understanding with any person whereby [~~he~~] the
9 person participates or is to participate in the proceeds of
10 gambling activity.

11 ~~[(10)]~~ "Social gambling" [~~is~~] means the same as defined in
12 section 712-1231.

13 ~~[(11)]~~ "Something of value" means any money or property,
14 any token, object, or article exchangeable for money or
15 property, or any form of credit or promise directly or
16 indirectly contemplating transfer of money or property or of any
17 interest therein, or involving extension of a service or
18 entertainment."

19 PART II

20 SECTION 4. The legislature has received a mandate from the
21 State's voters to address the massive shortfall of revenue that
22 threatens to stagnate the economic growth necessary to maintain



1 much needed social programs, guarantee quality education, and
2 fund essential county and state programs. To meet these
3 challenges, while avoiding over-burdensome taxation regimes and
4 further draconian cuts, the State needs to look at new and
5 emerging economic alternatives that permit Hawaii to use its
6 competitive advantage over other locales without exposing the
7 population to the potential negative side effects that might
8 attend these alternatives.

9 The legislature finds that one alternative that will permit
10 the State to address its needs is to adopt a licensing regime
11 for peer-to-peer internet entertainment. Unlike traditional
12 internet gaming in which players play against a computerized
13 house similar to video poker machines in destinations like Las
14 Vegas, peer-to-peer internet entertainment involves human
15 players competing against other players from around the world in
16 a virtual venue that is hosted by the licensed site. Because of
17 Hawaii's time zone position relative to those in Asia and the
18 western hemisphere, peer-to-peer entertainment sites situated in
19 Hawaii would permit same day processing of financial
20 transactions arising from game play.

21 The legislature also finds that the State could realize
22 substantial revenue through a robust licensing fee and wager



1 service hosting fees. Because these internet competitions are
2 conducted primarily with players from Asia, the mainland United
3 States, and other parts of the world outside Hawaii, the social
4 ills associated with gambling would not be visited upon Hawaii
5 residents. Therefore, it would not be necessary for the State
6 to expend scarce resources to combat these social ills.

7 The legislature further finds that while there are no cases
8 on point, legal opinions have reasoned that, because these sites
9 consist of competition in games of skill between human players
10 and not in games of chance that are now prohibited under
11 Hawaii's anti-gambling statutes, this type of entertainment
12 would not violate the federal Unlawful Internet Gaming
13 Enforcement Act, 31 U.S.C. §§5361-5367. Additionally, the
14 legislature finds that federal cases do not interpret the
15 federal Wire Act, 18 U.S.C. §1084, to prohibit the transfer of
16 funds that one may have earned through these human-to-human
17 competitions from the licensed host to the players' bank
18 account.

19 The purpose of this Act is to authorize internet based
20 peer-to-peer contests of skill to be hosted in Hawaii and
21 thereby to bolster the State's economy.



1 SECTION 5. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER B

5 PEER-TO-PEER INTERNET ENTERTAINMENT

6 §B-1 Definitions. As used in this chapter, unless the
7 context clearly requires otherwise:

8 "Chairperson" has the same meaning as defined in section
9 A-2.

10 "Commission" has the same meaning as defined in section
11 A-2.

12 "Executive director" has the same meaning as defined in
13 section A-2.

14 "Peer-to-peer entertainment" has the same meaning as
15 defined in section A-2.

16 "Peer-to-peer internet entertainment" means peer-to-peer
17 entertainment conducted via the Internet by a host whose
18 facilities and principal place of business are in the State.

19 §B-2 Authorization for limited peer-to-peer internet
20 entertainment. (a) Peer-to-peer internet entertainment shall
21 be authorized by the commission pursuant to this chapter only as
22 follows:



- 1 (1) Not more than two licenses shall be issued to
2 operators of the infrastructure necessary to host
3 peer-to-peer internet entertainment pursuant to
4 chapter 103D, Hawaii Revised Statutes;
- 5 (2) Procedures shall be established to ensure that play is
6 conducted only between live participants and not by
7 computers, computer software, inanimate devices, or by
8 agents of the licensee;
- 9 (3) Chapter A and the rules adopted thereunder shall apply
10 to peer-to-peer internet entertainment authorized
11 under this chapter; and
- 12 (4) Advertising on the peer-to-peer internet entertainment
13 websites shall be provided free of charge to the State
14 for tourism promotion and for licensing by the State
15 of any other advertising.
- 16 (b) The Hawaii peer-to-peer entertainment commission shall
17 adopt rules necessary and make applications available for a
18 licensee to begin peer-to-peer internet entertainment operations
19 within one hundred twenty days of its appointment. Applications
20 for a peer-to-peer internet entertainment license shall be
21 submitted to the commission no later than sixty days after the
22 date applications are made available and shall include a



1 development plan for the facility and its operations. The
2 commission shall select applicants no later than ninety days
3 after the final date applications must be submitted to the
4 commission. If a selected applicant meets all the requirements
5 of this part, the commission shall issue a license to the
6 applicant within one hundred and twenty days after the date the
7 applicant is selected.

8 §B-3 Powers of the commission. In addition to the powers
9 conferred pursuant to chapter A, the commission shall have all
10 powers necessary to regulate peer-to-peer internet entertainment
11 operations under this chapter, including the power to:

12 (1) Require that records, including financial or other
13 statements, of any licensee under this chapter be kept
14 in the manner prescribed by the commission and that
15 any licensee involved in the ownership or management
16 of peer-to-peer internet entertainment operations
17 submit to the commission an annual balance sheet and
18 profit and loss statement, a list of the stockholders
19 or other persons having a five per cent or greater
20 beneficial interest in the peer-to-peer internet
21 entertainment activities of each licensee, and any



1 other information the commission deems necessary to
2 effectively administer this chapter;

3 (2) Prescribe any employment application form to be used
4 by any licensee involved in the ownership or
5 management of peer-to-peer internet entertainment
6 operations for hiring purposes; and

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

11 §B-4 Member, employee, or agent of commission; conduct
12 generally. (a) Every member, employee, or agent of the
13 commission shall adhere to the standards of conduct set forth in
14 chapter A with regard to peer-to-peer entertainment, generally,
15 and to the standards set forth in this section with regard to
16 peer-to-peer internet entertainment, in particular.

17 (b) Any member, employee, or agent of the commission who
18 is negotiating for, or acquires by any means, any interest in
19 any person who is a licensee or an applicant for a license, or
20 is affiliated with such a person, shall immediately provide
21 written notice of the details of the interest to the
22 chairperson. The member, employee, or agent of the commission



1 shall not act on behalf of the commission with respect to that
2 person.

3 (c) A member, employee, or agent of the commission shall
4 not enter into any negotiations for employment with any person
5 or affiliate of any person who is a licensee or an affiliate and
6 shall immediately provide written notice of the details of any
7 such negotiations or discussions to the chairperson. The
8 member, employee, or agent of the commission shall not take any
9 action on behalf of the commission with respect to that person.

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

18 (e) A member, employee, or agent of the commission or a
19 parent, spouse, sibling, or child of a member, employee, or
20 agent of the commission shall not accept any gift, gratuity,
21 compensation, travel, lodging, or anything of value, directly or
22 indirectly from any licensee, applicant, or any affiliate or



1 representative of an applicant or licensee, unless the
2 acceptance conforms to a written policy or directive issued by
3 the chairperson or the commission. Any member, employee, or
4 agent of the commission who is offered or receives any gift,
5 gratuity, compensation, travel, lodging, or anything of value,
6 directly or indirectly, from any licensee or any applicant or
7 affiliate or representative of an applicant or licensee shall
8 immediately provide written notification of the details to the
9 chairperson.

10 (f) Any commission member, licensee, or applicant or
11 affiliate or representative of a commission member, licensee, or
12 applicant who receives any ex parte communication in violation
13 of section B-7(c), or who is aware of an attempted communication
14 in violation of section B-7(c), shall immediately report details
15 of the communication or attempted communication in writing to
16 the chairperson.

17 (g) Any member of the commission who receives an ex parte
18 communication that attempts to influence that member's official
19 action shall disclose the source and content of the
20 communication to the chairperson. The chairperson may
21 investigate or initiate an investigation of the matter with the
22 assistance of the attorney general and law enforcement to



1 determine if the communication violates subsection (f), section
2 B-7(c), or other state law. The disclosure under this section
3 and the investigation shall remain confidential. Following an
4 investigation, the chairperson shall advise the governor or the
5 commission, or both, of the results of the investigation and may
6 recommend action, as the chairperson considers appropriate.

7 (h) A new or current employee or agent of the commission
8 shall obtain written permission from the executive director
9 before continuing outside employment held at the time the
10 employee begins to work for the commission. Permission shall be
11 denied, or permission previously granted shall be revoked, if
12 the nature of the work is considered to or does create a
13 possible conflict of interest or otherwise interferes with the
14 duties of the employee or agent for the commission.

15 (i) An employee or agent of the commission granted
16 permission for outside employment shall not conduct any business
17 or perform any activities, including solicitation, related to
18 outside employment on premises used by the commission or during
19 the employee's working hours for the commission.

20 (j) The chairperson shall report any action the
21 chairperson has taken or contemplates taking under this section,
22 with respect to an employee or agent or former employee or



1 former agent, to the commission at the next meeting of the
2 commission. The commission may direct the executive director to
3 take additional or different action.

4 (k) If a financial interest in a licensee or an applicant,
5 or affiliate or representative of a licensee or applicant, is
6 acquired by:

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

9 (2) An employee of the commission; or

10 (3) The employee's or agent's spouse, parent, or child;
11 through no intentional action of the employee or agent, the
12 employee or agent shall have up to thirty days to divest or
13 terminate the financial interest. Employment may be terminated
14 if the interest has not been divested after thirty days.

15 (1) As used in this section:

16 "Outside employment" includes the following:

17 (1) Operation of a proprietorship;

18 (2) Participation in a partnership or group business
19 enterprise; or

20 (3) Performance as a director or corporate officer of any
21 for-profit corporation or banking or credit
22 institution.



1 §B-5 Application for a peer-to-peer internet entertainment
2 license. (a) Applications to the commission for a license to
3 conduct peer-to-peer internet entertainment shall be made under
4 oath on forms provided by the commission and shall contain
5 information as prescribed by the commission, including all of
6 the following:

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



- 1 Commission if the registration contains the
2 information required by this paragraph;
- 3 (3) Whether the applicant has been indicted, convicted,
4 pled guilty or nolo contendere, or forfeited bail for
5 a felony within the last ten years or for a
6 misdemeanor involving gambling, theft, or fraud within
7 the last ten years and including the date, the name
8 and location of the court, arresting agency,
9 prosecuting agency, the case caption, the docket
10 number, the offense, the disposition, and the location
11 and length of incarceration;
- 12 (4) Whether the applicant has ever been granted any
13 license or certificate issued by a licensing authority
14 in the State, or any other jurisdiction, that has been
15 restricted, suspended, revoked, or not renewed and a
16 statement describing the facts and circumstances
17 concerning the application, denial, restriction,
18 suspension, revocation, or nonrenewal, including the
19 licensing or codifying authority, the date each action
20 was taken, and the reason for each action;
- 21 (5) Whether the applicant, within the last ten years, has
22 filed or had filed against it a civil or



1 administrative action or proceeding in bankruptcy or,
2 within the last ten years, has been involved in any
3 formal process to adjust, defer, suspend, or otherwise
4 address the payment of any debt, including the date of
5 filing, the name and location of the court, the case
6 caption, the docket number, and the disposition;

7 (6) Whether the applicant, within the last five tax years,
8 has failed to pay any final amount of tax due and
9 payable under federal, state, or local law, after
10 exhaustion of all inter-agency appeals processes,
11 including the amount, type of tax, the taxing, and
12 time periods involved;

13 (7) A statement listing the names and titles of all public
14 officials or officers of any unit of state government
15 or county government in the jurisdiction in which the
16 peer-to-peer internet entertainment facility is to be
17 located, and the spouses, parents, and children of
18 those public officials or officers who, directly or
19 indirectly, own any financial interest in, have any
20 beneficial interest in, are the creditors of or hold
21 any debt instrument issued by, or hold or have an
22 interest in any contractual or service relationship



1 with, the applicant or a qualifier. As used in this
2 paragraph, "public official" or "officer" does not
3 include a person who would be listed solely because of
4 the person's state or federal military service; and

5 (8) The name and business telephone number of any
6 attorney, counsel, or any other person representing an
7 applicant in matters before the commission.

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

13 (c) Each applicant shall disclose the identity of every
14 person, association, trust, or corporation having a greater than
15 five per cent direct or indirect financial interest in the peer-
16 to-peer internet entertainment operation for which the license
17 is sought. If the disclosed entity is a trust, the application
18 shall disclose the names and addresses of the beneficiaries; if
19 a corporation, the names and addresses of all stockholders and
20 directors; if a partnership, the names and addresses of all
21 partners, both general and limited.



1 (d) An application fee of \$5,000 shall be paid to the
2 commission by an applicant at the time of filing to defray the
3 costs associated with an applicant and qualifier's background
4 investigation conducted by the commission. All information,
5 records, interviews, reports, statements, memoranda, or other
6 data supplied to or used by the commission in the course of its
7 review or investigation of an application for a license shall be
8 confidential, used only for the purpose of evaluating an
9 applicant, and exempt from public disclosure required by chapter
10 92F, and shall not be admissible as evidence, nor discoverable
11 in any action of any kind in any court or before any tribunal,
12 commission, agency, or person, except for any action deemed
13 necessary by the commission.

14 (e) An applicant shall be ineligible to receive a peer-to-
15 peer internet entertainment license if:

16 (1) The applicant has been convicted of a felony under the
17 laws of this State, any other state, or the United
18 States;

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



- 1 (3) The person has knowingly submitted an application for
2 a license under this chapter that contains false
3 information;
- 4 (4) The person is a member of the commission;
- 5 (5) The firm or corporation applying for a license employs
6 a person described in paragraph (1), (2), (3), or (4)
7 who participates in the management or operation of
8 entertainment operations authorized under this
9 chapter; or
- 10 (6) A license of the applicant issued under this chapter,
11 or a license to own or operate gaming facilities in
12 any other jurisdiction, has been revoked.

13 **§B-6 License fee; disposition.** The commission shall award
14 a license to operate a peer-to-peer internet entertainment
15 operation pursuant to chapter 103D to the two highest qualified
16 bidders; provided that the minimum bid for each license shall be
17 \$100,000,000 and that each licensee shall thereafter pay an
18 annual fee of twenty percent of all wagers placed. All fees
19 collected pursuant to this section shall be deposited into the
20 general fund.

21 **§B-7 Licensee or applicant; conduct generally.** (a) A
22 licensee or applicant shall not knowingly initiate a negotiation



1 for, or discussion of, employment with a member, employee, or
2 agent of the commission. A licensee or applicant who initiates
3 a negotiation or discussion about employment shall immediately
4 provide written notice of the details of the negotiation or
5 discussion to the chairperson as soon as that person becomes
6 aware that the negotiation or discussion has been initiated with
7 a member, employee, or agent of the commission.

8 (b) A licensee or applicant, or affiliate or
9 representative of an applicant or licensee, shall not, directly
10 or indirectly, knowingly give or offer to give any gift,
11 gratuity, compensation, travel, lodging, or anything of value to
12 any member, employee, or agent of the commission that the
13 member, employee, or agent of the commission is prohibited from
14 accepting under section B-4(e).

15 (c) A licensee or applicant or any affiliate or
16 representative of an applicant or licensee shall not engage in
17 ex parte communications concerning a pending application,
18 license, or enforcement action with members of the commission.
19 A member of the commission shall not engage in any ex parte
20 communications with a licensee or an applicant, or with any
21 affiliate or representative of an applicant or licensee,



1 concerning a pending application, license, or enforcement
2 action.

3 (d) Violation of this chapter by a licensee, applicant, or
4 affiliate or representative of a licensee or applicant may
5 result in denial of the application of licensure or revocation
6 or suspension of license or other disciplinary action by the
7 commission.

8 §B-8 Rules. The commission shall adopt rules pursuant to
9 chapter 91 necessary for the purpose of this chapter."

10 PART III

11 SECTION 6. If any provision of this Act, or the
12 application thereof to any person or circumstance, is held
13 invalid, the invalidity does not affect other provisions or
14 applications of the Act that can be given effect without the
15 invalid provision or application, and to this end the provisions
16 of this Act are severable.

17 SECTION 7. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.

20 SECTION 8. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

22 SECTION 9. This Act shall take effect on July 1, 2112.



Report Title:

Gambling; Peer-to-Peer Entertainment

Description:

Authorizes events featuring peer-to-peer entertainment, including poker, in which each player receives the player's personal winnings but in which no other person or entity derives any proceeds based on the outcome. Authorizes issuance of not more than two licenses to operate infrastructure for online peer-to-peer entertainment for a minimum fee of \$100,000,000 per year, 20% of total wagers, and free advertising for State. Prohibits operator of events or licensee from participating, directly or indirectly, in peer-to-peer entertainment and prohibits participation by computer. Establishes peer-to-peer entertainment commission. Effective 7/1/2112. (HD1)

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