

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

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

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

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

18 "Casino gaming", "limited casino gaming", "game", or
19 "gaming", as the context may require, means the operation of
20 games licensed under this chapter, including baccarat, twenty-
21 one, poker, craps, slot machine, video gaming of chance,
22 roulette wheel, Klondike table, punch-board, faro layout,



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

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

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

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

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

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

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



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

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

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

10 "Gross receipts" means:

11 (1) The total of:

12 (A) Cash received as winnings;

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

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

17 and

18 (2) Does not include:

19 (A) Counterfeit money or tokens;

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



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

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

6 "Individual" means a natural person.

7 "Institutional investor" means:

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

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

14 (3) An investment company registered under the Investment
15 Company Act of 1940 (Title I of Chapter 686, 54 Stat.
16 789, 15 United States Code 80a-1 to 80a-3 and 80a-4 to
17 80a-64);

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

21 (5) A closed end investment trust;



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

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

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

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



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

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

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



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

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

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



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

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

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

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

17 (d) The governor may remove or suspend for cause any
18 member of the commission after due notice and public hearing.
19 The president of the senate or the speaker of the house of
20 representatives may request that the governor remove or suspend
21 a member of the commission that is nominated by either the
22 president of the senate or the speaker of the house of

1 representatives, respectively. Upon receipt of a request from
2 either the president of the senate or the speaker of the house
3 of representatives, as applicable, the governor shall remove or
4 suspend the member or members of the commission in question.

5 (e) Members 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. Special meetings may be called by the
16 chairperson or any four members upon seventy-two hours' written
17 notice to each member. Four members shall constitute a quorum,
18 and a majority vote of the members present shall be required for
19 any final determination by the commission. The commission shall
20 keep a complete and accurate record of all its meetings.

21 (g) Before assuming the duties of office, each member of
22 the commission shall take an oath that the member shall



1 faithfully execute the duties of office according to the laws of
2 the State and shall file and maintain with the executive
3 director a bond in the sum of \$25,000 with good and sufficient
4 sureties. The cost of any bond for any member of the commission
5 under this section shall be considered a part of the necessary
6 expenses of the commission.

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

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



1 actually and necessarily incurred in the performance
2 of the executive director's duties.

3 (i) Except as otherwise provided by law, the executive
4 director may:

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

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

12 (A) Is an elected state official;

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

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



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

10 (j) The salaries of employees shall be set by the
11 executive director.

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

19 (l) A person shall not be appointed to or employed by the
20 commission if any of the following circumstances exist:



- 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, except
9 that the person seeking employment may be
10 employed by the commission if the person's
11 interest in any casino licensee would not, in the
12 opinion of the commission, interfere with the
13 objective discharge of the person's employment
14 obligations. A person shall not be employed by
15 the commission if the person's interest in the
16 casino licensee constitutes a controlling
17 interest in that casino licensee;
18 or
19 (2) The person or the person's spouse, parent, child,
20 child's spouse, or sibling, is a member of the
21 commission, or a director of, or a person financially
22 interested in, any person licensed as a casino



1 licensee or casino supplier, or any person who has an
2 application for a license pending before the
3 commission.

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

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

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

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

14 (n) Each employee of the commission shall file with the
15 commission a financial disclosure statement listing all assets,
16 liabilities, property and business interests, and sources of
17 income of the employee and the employee's spouse. This
18 subsection does not apply to the executive director or a key
19 employee.

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



1 applicant or person licensed by or registered with the
2 commission for a period of four years after the date the
3 person's membership on or employment with the commission
4 terminates.

5 (p) An employee of the commission shall not acquire any
6 direct or indirect interest in, be employed by, or enter into a
7 contract for services with any applicant or person licensed by
8 or registered with the commission for a period of two years
9 after the date the person's employment with the commission is
10 terminated.

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

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



1 limited liability company, partnership, limited liability
2 partnership association, trust, or other form of legal entity.

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

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

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

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

20 (2) Issue a license to operate a casino facility or casino
21 facilities 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 the licensees, the premises, offices, casinos,
14 facilities, or other places of business of a casino
15 licensee, or casino supplier licensee, where evidence
16 of the compliance or noncompliance with this chapter
17 or rules is likely to be found. Entry is authorized
18 to:
 - 19 (A) Inspect and examine all premises wherein casino
20 gaming or the business of gaming or the business
21 of a supplier is conducted, or where any records
22 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 stored
6 records, money receptacles, other containers and
7 their contents, equipment in which the records
8 are stored, or other gaming related equipment and
9 supplies on or around the premises, including
10 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
19 licensee or a holder of an occupational license for a
20 violation, or institute appropriate legal action for
21 enforcement, or both;



- 1 (8) Be present, through its inspectors and agents, any
2 time casino gaming operations are conducted in any
3 casino for the purpose of certifying the revenue
4 thereof, 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 all casino facilities
10 as well as for electronic or mechanical gaming
11 devices;
- 12 (10) 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 casino gaming operations submit to the commission:
- 17 (A) An annual balance sheet and profit and loss
18 statement;
- 19 (B) A list of the stockholders or other persons
20 having a five per cent or greater beneficial
21 interest in the gaming activities of each
22 licensee; and



- 1 (C) Any other information the commission deems
2 necessary to effectively administer this chapter;
- 3 (11) Conduct hearings, issue subpoenas for the attendance
4 of witnesses and subpoenas duces tecum for the
5 production of books, records, and other pertinent
6 documents, and to administer oaths and affirmations to
7 the witnesses, when, in the judgment of the
8 commission, it is necessary to administer or enforce
9 this chapter. The executive director or the executive
10 director's designee is also authorized to issue
11 subpoenas and to administer oaths and affirmations to
12 witnesses;
- 13 (12) Prescribe any employment application form to be used
14 by any licensee involved in the ownership or
15 management of casino gaming operations for hiring
16 purposes;
- 17 (13) Eject or exclude, or authorize the ejection or
18 exclusion of, any person from casino facilities where
19 the person is in violation of this chapter or where
20 the person's conduct or reputation is such that the
21 person's presence within a casino facility, in the
22 opinion of the commission, may call into question the



1 honesty and integrity of the casino gaming operation
2 or interfere with the orderly conduct thereof or any
3 other action that, in the opinion of the commission,
4 is a detriment or impediment to the casino gaming
5 operations; provided that the propriety of that
6 ejection or exclusion shall be subject to subsequent
7 hearing by the commission;

8 (14) Permit licensees of casino gaming operations to use a
9 wagering system whereby wagerers' money may be
10 converted to tokens, electronic cards, or chips, which
11 shall be used only for wagering within the casino
12 facility;

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

17 (16) Impose and collect fines of up to \$5,000 against
18 individuals and up to \$10,000 or an amount equal to
19 the daily gross receipts, whichever is larger, against
20 licensees for each violation of this chapter, any
21 rules adopted by the commission, or for any other



- 1 action which, in the commission's discretion, is a
2 detriment or impediment to casino gaming operations;
- 3 (17) Hire employees to gather information, conduct
4 investigations, and carry out other tasks described in
5 this chapter;
- 6 (18) Establish minimum levels of insurance to be maintained
7 by licensees;
- 8 (19) Delegate the execution of any of its powers for the
9 purpose of administering and enforcing this chapter;
10 and
- 11 (20) Adopt rules pursuant to chapter 91 to implement this
12 chapter. Rules adopted under this chapter shall not
13 be arbitrary, capricious, or contradictory to the
14 provisions of chapter 91. Rules may include rules
15 that:
- 16 (A) Govern, restrict, approve, or regulate the casino
17 gaming authorized in this chapter;
- 18 (B) Promote the safety, security, and integrity of
19 casino gaming authorized in this chapter;
- 20 (C) License and regulate, consistent with the
21 qualifications and standards set forth in this
22 chapter, persons participating in or involved



1 with casino gaming authorized in this chapter;

2 and

3 (D) Take any other action which may be reasonable or
4 appropriate to enforce this chapter and rules
5 adopted under this chapter.

6 This section is not intended to limit warrantless inspections,
7 except in accordance with constitutional requirements.

8 § -6 Member, employee, or agent of commission; conduct
9 generally. (a) By January 31 of each year, each member of the
10 commission shall prepare and file with the commission a
11 disclosure form in which the member:

12 (1) Affirms that the member or the member's spouse,
13 parent, child, or child's spouse is not a member of
14 the board of directors of, financially interested in,
15 or employed by, a licensee or applicant;

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

19 (3) Discloses any legal or beneficial interest in any real
20 property that is or may be directly or indirectly
21 involved with gaming operations authorized by this
22 chapter; and



1 (4) Discloses any other information that may be required
2 to ensure that the integrity of the commission and its
3 work is maintained.

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

7 (1) Affirms the absence of financial interests prohibited
8 by this chapter;

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

13 (3) Discloses whether the employee or the employee's
14 spouse, parent, child, or child's spouse is
15 financially interested in or employed by a supplier
16 licensee, or an applicant for a supplier's license,
17 under this chapter; and

18 (4) Discloses any other information that may be required
19 to ensure that the integrity of the commission and its
20 work is maintained.

21 (c) A member, employee, or agent of the commission who
22 becomes aware that the member, employee, or agent of the



1 commission or their spouse, parent, child, or child's spouse is
2 a member of the board of directors of, financially interested
3 in, or employed by a licensee or an applicant shall immediately
4 provide detailed written notice to the chairperson.

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

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

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

13 (3) A felony under Hawaii law, the laws of any other
14 state, or the laws of the United States, or any other
15 jurisdiction,

16 shall immediately provide detailed written notice of the
17 conviction or charge to the chairperson.

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



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

3 (f) 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 (g) 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 (h) A licensee or applicant shall not knowingly initiate a
19 negotiation for, or discussion of, employment with a member,
20 employee, or agent of the commission. A licensee or applicant
21 who initiates a negotiation or discussion about employment shall
22 immediately provide written notice of the details of the



1 negotiation or discussion to the chairperson as soon as that
2 person becomes aware that the negotiation or discussion has been
3 initiated with a member, employee, or agent of the commission.

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

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



1 immediately provide written notification of the details to the
2 chairperson.

3 (k) A licensee or applicant, or affiliate or
4 representative of an applicant or licensee, shall not, directly
5 or indirectly, knowingly give or offer to give any gift,
6 gratuity, compensation, travel, lodging, or anything of value to
7 any member, employee, or agent of the commission which the
8 member, employee, or agent of the commission is prohibited from
9 accepting under subsection (j).

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

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



1 (n) A member, employee, or agent of the commission shall
2 disclose their past involvement with any casino interest in the
3 past five years and shall not engage in political activity or
4 politically-related activity during the duration of their
5 appointment or employment.

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

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



1 (q) Any commission member, licensee, or applicant or
2 affiliate or representative of a commission member, licensee, or
3 applicant who receives any ex parte communication in violation
4 of subsection (p), or who is aware of an attempted communication
5 in violation of subsection (p), shall immediately report details
6 of the communication or attempted communication in writing to
7 the chairperson.

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

20 (s) A new or current employee or agent of the commission
21 shall obtain written permission from the executive director
22 before continuing outside employment held at the time the



1 employee begins to work for the commission. Permission shall be
2 denied, or permission previously granted shall be revoked, if
3 the nature of the work is considered to, or does create, a
4 possible conflict of interest or otherwise interferes with the
5 duties of the employee or agent for the commission.

6 (t) An employee or agent of the commission granted
7 permission for outside employment shall not conduct any business
8 or perform any activities, including solicitation, related to
9 outside employment on premises used by the commission or during
10 the employee's working hours for the commission.

11 (u) Whenever the chairperson is required to file
12 disclosure forms or report in writing the details of any
13 incident or circumstance pursuant to this section, the
14 chairperson shall file the forms or reports to the commission.

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

21 (w) No member, employee, or agent of the commission may
22 participate in or wager on any gambling game conducted by any



1 licensee or applicant, or any affiliate of an applicant or
2 licensee in the state or in any other jurisdiction, except as
3 follows:

4 (1) A member, employee, or agent of the commission may
5 participate in and wager on a gambling game conducted
6 by a licensee under this chapter, to the extent
7 authorized by the chairperson or commission as part of
8 the person's surveillance, security, or other official
9 duties for the commission; and

10 (2) A member, employee, or agent of the commission shall
11 advise the chairperson at least twenty-four hours in
12 advance if they plan to be present in a casino in this
13 State, or in another jurisdiction, operated by a
14 licensee, applicant, or affiliate of a licensee or
15 applicant, outside the scope of their official duties
16 for the commission.

17 (x) Violation of this section by a licensee, applicant, or
18 affiliate or representative of a licensee or applicant, may
19 result in denial of the application of licensure or revocation
20 or suspension of license or other disciplinary action by the
21 commission.



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

5 (z) A violation of this section by an employee or agent of
6 the commission shall not result in termination of employment or
7 require other disciplinary action if the commission determines
8 that the conduct involved does not violate the purpose of this
9 chapter. Employment shall be terminated for the following:

- 10 (1) If the employee or agent is a spouse, parent, child,
11 or spouse of a child of a commission member; or
- 12 (2) If, after being offered employment or having begun
13 employment with the commission, the employee or agent
14 intentionally acquires a financial interest in a
15 licensee or an applicant, or affiliate or
16 representative of a licensee or applicant.

17 (aa) If a financial interest in a licensee or an
18 applicant, or affiliate or representative of a licensee or
19 applicant, is acquired by:

- 20 (1) An employee or agent that has been offered employment
21 with the commission;
- 22 (2) An employee of the commission; or



1 (3) The employee's or agent's spouse, parent, child, or
2 child's spouse through no intentional action of the
3 employee or agent, the employee or agent shall have up
4 to thirty days to divest or terminate the financial
5 interest. Employment may be terminated if the
6 interest has not been divested after thirty days.

7 (bb) Violation of this section shall not create a civil
8 cause of action.

9 (cc) As used in this section:

10 "Outside employment" includes the following:

11 (1) Operation of a proprietorship;

12 (2) Participation in a partnership or group business
13 enterprise; or

14 (3) Performance as a director or corporate officer of any
15 for-profit corporation, or banking or credit
16 institution.

17 "Political activity" or "politically related activity"
18 includes any of the following:

19 (1) Using the person's official authority or influence for
20 the purpose of interfering with or affecting the
21 result of an election;



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

13 § -7 **Authorization of limited gaming.** (a) Casino
14 gaming shall only be permitted in casino facilities on
15 the island of Oahu. Any application for a casino license to
16 operate a casino facility on Oahu shall include a casino
17 facility development plan for the casino facility.

18 (b) The commission shall adopt the necessary rules and
19 make applications available for a casino license to operate a
20 casino facility within one hundred and twenty days of its
21 appointment. Applications for casino licenses shall be
22 submitted to the commission no later than sixty days after the



1 date applications are made available. The commission shall
2 select applicants who best meet all of the criteria pursuant to
3 section -9 no later than ninety days after the final date
4 applications must be submitted to the commission. If a selected
5 applicant meets all the requirements of this chapter, the
6 commission shall issue a license to the applicant within one
7 hundred and twenty days after the date the applicant is
8 selected.

9 **§ -8 Application for casino license.** (a) A person,
10 including qualifiers, may apply to the commission for a casino
11 license to conduct a casino gaming operation. The application
12 shall be made under oath on forms provided by the commission and
13 shall contain information as prescribed by the commission,
14 including all of the following:

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

19 (2) An identification of any business, including, if
20 applicable, the state of incorporation or
21 registration, in which the applicant or qualifier has
22 an equity interest of more than five per cent. If the



1 applicant or qualifier is a corporation, partnership,
2 or other business entity, the applicant or qualifier
3 shall identify any other corporation, partnership, or
4 other business entity in which it has an equity
5 interest of more than five per cent, including, if
6 applicable, the state of incorporation or
7 registration. The applicant or qualifier may comply
8 with this paragraph by filing a copy of the
9 applicant's or qualifier's registration with the
10 securities exchange commission if the registration
11 contains the information required by this paragraph;

12 (3) Whether the applicant or qualifier has been indicted,
13 convicted, has pled guilty or nolo contendere, or
14 forfeited bail for a felony within the last ten years
15 or a misdemeanor involving gambling, theft, or fraud
16 within the last ten years, not including traffic
17 violations, and including the date, the name and
18 location of the court, arresting agency, prosecuting
19 agency, the case caption, the docket number, the
20 offense, the disposition, and the location and length
21 of incarceration;



1 (4) Whether the applicant or qualifier has ever been
2 granted any license or certificate issued by a
3 licensing authority in the State, or any other
4 jurisdiction, that has been restricted, suspended,
5 revoked, or not renewed and a statement describing the
6 facts and circumstances concerning the application,
7 denial, restriction, suspension, revocation, or
8 nonrenewal, including the licensing authority, the
9 date each action was taken, and the reason for each
10 action;

11 (5) Whether the applicant or qualifier has within the last
12 ten years filed or had filed against it a civil or
13 administrative action or proceeding in bankruptcy or
14 has within the last ten years been involved in any
15 formal process to adjust, defer, suspend, or otherwise
16 address the payment of any debt, including the date of
17 filing, the name and location of the court, the case
18 caption, the docket number, and the disposition;

19 (6) Whether the applicant or qualifier within the last
20 five tax years has failed to pay any final amount of
21 tax due and payable under federal, state, or local
22 law, after exhaustion of all inter-agency appeals



1 processes, including the amount, type of tax, the
2 taxing, and time periods involved;

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

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

21 (9) For the applicant only, a description of any proposed
22 or approved casino gaming facility, including the



1 economic benefit to the community, anticipated or
2 actual number of employees, any statement from an
3 applicant regarding compliance with federal and state
4 affirmative action guidelines, projected or actual
5 admissions, projected or actual gross receipts, and
6 scientific market research.

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

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

18 (d) Each applicant and qualifier shall disclose the
19 identity of every person, association, trust, or corporation
20 having a greater than five per cent direct or indirect financial
21 interest in the casino gaming operation for which the license is
22 sought. If the disclosed entity is a trust, the application



1 shall disclose the names and addresses of the beneficiaries; if
2 a corporation, the names and addresses of all stockholders and
3 directors; if a partnership, the names and addresses of all
4 partners, both general and limited.

5 (e) An application fee of \$50,000 shall be paid by an
6 applicant at the time of filing to defray the costs associated
7 with an applicant and qualifier's background investigation
8 conducted by the commission. If the costs of the investigation
9 exceed \$50,000, the applicant shall pay the additional amount to
10 the commission. If the costs of the investigation are less than
11 \$50,000, the applicant shall receive a refund of the remaining
12 amount. All information, records, interviews, reports,
13 statements, memoranda, or other data supplied to or used by the
14 commission in the course of its review or investigation of an
15 application for a license shall be confidential, used only for
16 the purpose of evaluating an applicant, and exempt from public
17 disclosure required by chapter 92F, and shall not be admissible
18 as evidence, nor discoverable in any action of any kind in any
19 court or before any tribunal, commission, agency, or person,
20 except for any action deemed necessary by the commission.

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



- 1 (1) The applicant has been convicted of a felony under the
2 laws of this State, any other state, or the United
3 States;
- 4 (2) The person has been convicted of any violation under
5 part III, chapter 712, or substantially similar laws
6 of another jurisdiction;
- 7 (3) The person has knowingly submitted an application for
8 a license under this chapter that contains false
9 information;
- 10 (4) The person is a member of the commission;
- 11 (5) The firm or corporation applying for a license employs
12 a person described in paragraph (1), (2), (3), or (4)
13 who participates in the management or operation of
14 gaming operations authorized under this chapter;
- 15 (6) A license of the applicant issued under this chapter,
16 or a license to own or operate gaming facilities in
17 any other jurisdiction, has been revoked; or
- 18 (7) The applicant or qualifier owns any interest in,
19 operates or manages, has a contractual relationship
20 with, or is an affiliate of, a hotel, motel, or resort
21 located within thirty miles of a casino facility site
22 that may be developed under this chapter. The



1 relationship between the applicant or any of its
2 qualifiers and the hotel, motel, or resort shall be
3 determined at the time of licensure, thus allowing any
4 applicants or their qualifiers to divest themselves of
5 such interests between the time of application and the
6 time when the license is approved.

7 **§ -9 Criteria for award of a casino license.** (a) The
8 commission shall issue a license to operate a casino facility to
9 an applicant who meets all of the following criteria:

- 10 (1) The applicant has submitted a casino facility
11 development plan for the casino facility that will
12 increase tourism, generate jobs, and provide revenue
13 to the local economy;
- 14 (2) The applicant has provided financial data and other
15 facts showing that the applicant has the financial
16 resources and ability to construct the casino
17 facility;
- 18 (3) The applicant has the financial ability to purchase
19 and maintain adequate liability and casualty insurance
20 and to provide an adequate surety bond;

- 1 (4) The applicant has provided data on the sources and the
2 total amount of capitalization to develop, construct,
3 maintain, and operate the proposed casino facility;
- 4 (5) The applicant has adequate capitalization to develop,
5 construct, maintain, and operate, for the duration of
6 a license, the proposed casino facility in accordance
7 with the requirements of this chapter and rules
8 adopted by the commission and to responsibly pay off
9 its secured and unsecured debts in accordance with its
10 financing agreement and other contractual obligations;
- 11 (6) The extent to which the applicant or any of its
12 qualifiers demonstrate that they have assisted the
13 State in developing casino gaming through their
14 commitment of resources to support, promote, and
15 establish casino gaming in the State. Expenditures of
16 time, money, and effort shall all be considered in
17 connection with this criterion. The timing of
18 participation shall further influence this criterion,
19 with early participation and contribution to the
20 casino development program receiving more favorable
21 consideration;



- 1 (7) The extent to which the applicant or any of its
2 qualifiers demonstrate that they have at least four
3 years of experience in helping to revitalize an urban
4 area by successfully planning, developing, and opening
5 a land-based casino in any state that previously did
6 not permit casino gaming. The experience in planning,
7 developing, and opening a land-based casino in an
8 urban area in the past five years shall receive more
9 favorable consideration for this criterion. For
10 purposes of this paragraph, "urban area" means a
11 jurisdiction with a population of at least seven
12 hundred fifty thousand;
- 13 (8) Whether the applicant or any of its qualifiers has
14 been indicted, convicted, has pled guilty or nolo
15 contendere, or has forfeited bail for a felony within
16 the last ten years or a misdemeanor involving
17 gambling, theft, or fraud within the last ten years,
18 not including traffic violations;
- 19 (9) Whether the applicant or any of its qualifiers has
20 filed, or had filed against it, within the last ten
21 years a proceeding for bankruptcy or has within the
22 last ten years been involved in any formal process to



1 adjust, defer, suspend, or otherwise address the
2 payment of any debt;

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

8 (11) Whether the applicant meets other standards for the
9 issuance of a casino license that the commission may
10 have adopted by rule. The rules adopted hereunder
11 shall not be arbitrary, capricious, or contradictory
12 to the expressed provisions of this chapter and shall
13 further define and clarify the above listed conditions
14 rather than create new conditions for licensure.

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

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

21 (d) The commission may revoke the license if the licensee
22 fails to begin regular casino gaming operations within twelve



1 months of receipt of the commission's approval of the
2 application or twelve months after a certificate of occupancy
3 for the casino facility is first issued, whichever is later,
4 upon a finding by the commission that license revocation is in
5 the best interest of the State.

6 (e) The commission shall establish a process to facilitate
7 and expedite the approval of the necessary licenses and permits.
8 The commission may establish its own procedures for the issuance
9 of liquor licenses for any holder of an operator's license under
10 this chapter; provided that all state laws and county ordinances
11 relating to liquor are met.

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

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



1 bond is canceled and the licensee fails to file a new bond with
2 the commission in the required amount on or before the effective
3 date of cancellation, the licensee's license shall be revoked.
4 The total and aggregate liability of the surety on the bond
5 shall be limited to the amount specified in the bond.

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

15 (b) The executive director shall provide the applicant or
16 qualifier a reasonable period of time to correct the apparent
17 deficiency and, if the apparent deficiency is not corrected
18 within the reasonable time period, the executive director shall
19 find that the apparent deficiency has not been corrected.
20 Following this finding, the affected applicant or qualifier
21 shall have an opportunity to appeal the executive director's
22 finding of an apparent deficiency to the commission. The



1 commission shall conduct an investigative hearing, pursuant to
2 section -16 and in accordance with rules adopted under this
3 chapter, to determine whether there is sufficient evidence to
4 support a finding of an apparent deficiency. At the hearing,
5 the burden of proof shall be on the executive director to
6 demonstrate that the finding of an apparent deficiency is
7 supported by law and facts. Any finding by the commission about
8 a qualifier's apparent deficiency shall not constitute a final
9 determination by the commission as to the suitability of the
10 applicant to hold a license or the suitability of a qualifier to
11 hold an ownership interest in a casino applicant.

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

17 (d) A qualifier who has been issued an apparent deficiency
18 shall have the right to request that the commission expand the
19 apparent deficiency hearing under this section to include a
20 determination of the qualifier's suitability to hold an
21 ownership interest in the casino license applicant. If such a
22 request is made, the commission shall determine the suitability



1 of the affected qualifier separate from the suitability of the
2 casino applicant and any of its other qualifiers. A request by
3 a qualifier for an extended hearing pursuant to this section
4 shall not prevent the commission from issuing a license to the
5 applicant. Until the commission determines that a qualifier
6 under this section is suitable to hold an ownership interest in
7 the casino applicant, the casino applicant or licensee shall not
8 do any of the following:

- 9 (1) Make any direct or indirect payments or distributions
10 of revenue or other benefits to the qualifier that are
11 related in any way to the qualifier's interest in the
12 applicant; and
- 13 (2) Pay any direct or indirect compensation to the
14 qualifier for services rendered to the applicant,
15 unless specifically approved and authorized by the
16 commission.

17 **§ -12 Institutional investor.** (a) Unless the
18 commission determines that an institutional investor is
19 unqualified, an institutional investor holding less than ten per
20 cent of the equity securities or ten per cent of the debt
21 securities of a casino licensee's affiliate or affiliated
22 company that is related in any way to the financing of the



1 casino licensee, shall be granted a waiver of the eligibility
2 and suitability requirements if:

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

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

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

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

21 (c) An institutional investor granted a waiver under this
22 section who subsequently intends to influence or affect the



1 affairs of the issuer shall provide notice to the commission and
2 file an application for a determination of eligibility and
3 suitability before taking any action that may influence or
4 affect the affairs of the issuer.

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

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

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

19 (g) If the commission finds that an institutional
20 investor, holding any security of an affiliate or affiliated
21 company of a casino licensee that is related in any way to the
22 financing of the casino licensee, fails to comply with the



1 requirements of this section, or if at any time the commission
2 finds that, by reason of the extent or nature of its holdings an
3 institutional investor is in a position to exercise a
4 substantial impact upon the controlling interests of a casino
5 licensee, the commission may take any necessary action to
6 protect the public interest, including requiring the
7 institutional investor to satisfy the eligibility and
8 suitability requirements under sections -8, -9, and -10.

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



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

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

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

- 10 (1) The person has been convicted of a felony under the
11 laws of this State, any other state, or the United
12 States;
- 13 (2) The person has been convicted of any violation under
14 part III, chapter 712, or substantially similar laws
15 of another jurisdiction;
- 16 (3) The person has knowingly submitted an application for
17 a license under this chapter that contains false
18 information;
- 19 (4) The person is a member of the commission;
- 20 (5) The firm or corporation is one in which a person
21 defined in paragraph (1), (2), (3), or (4) is an
22 officer, director, or managerial employee;



- 1 (6) The firm or corporation employs a person, defined in
2 paragraph (1), (2), (3), or (4), who participates in
3 the management or operation of casino gaming
4 authorized under this chapter; or
- 5 (7) The license of the person, firm, or corporation issued
6 under this chapter, or a license to own or operate
7 casino gaming facilities in any other jurisdiction,
8 has been revoked.
- 9 (e) A supplier shall:
- 10 (1) Furnish to the commission a list of all equipment,
11 devices, and supplies offered for sale or lease in
12 connection with casino games authorized under this
13 chapter;
- 14 (2) Keep books and records for the furnishing of
15 equipment, devices, and supplies to casino gaming
16 operations separate and distinct from any other
17 business that the supplier might operate;
- 18 (3) File quarterly returns with the commission listing all
19 sales and leases;
- 20 (4) Permanently affix its name to all its equipment,
21 devices, and supplies, used for casino gaming
22 operations; and



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

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

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

12 **§ -14 Occupational licenses.** (a) The commission may
13 issue an occupational license to an applicant upon:

14 (1) The payment of a nonrefundable application fee set by
15 the commission;

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

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

20 (b) To be eligible for an occupational license, an
21 applicant shall:



- 1 (1) Be at least twenty one years of age if the applicant
2 performs any function involved in casino gaming by
3 patrons. Any applicant seeking an occupational
4 license for a non-gaming function shall be at least
5 eighteen years of age;
- 6 (2) Not have been convicted of a felony offense in any
7 jurisdiction or a crime involving dishonesty or moral
8 turpitude;
- 9 (3) Have demonstrated a level of skill or knowledge that
10 the commission determines to be necessary to operate
11 casino games in a casino facility; and
- 12 (4) Have met standards for the holding of an occupational
13 license as provided in rules adopted by the
14 commission, including background inquiries and other
15 requirements similar to those for an operator's
16 license.
- 17 (c) Each application for an occupational license shall be
18 on forms prescribed by the commission and shall contain all
19 information required by the commission. The applicant shall set
20 forth in the application whether the applicant:
- 21 (1) Has been issued prior gaming-related licenses in any
22 jurisdiction;



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

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

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

12 (e) The commission may refuse to grant an occupational
13 license to any person:

14 (1) Who is unqualified to perform the duties required of
15 the applicant;

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

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



1 (4) For any other just cause.

2 (f) The commission may suspend, revoke, or restrict any
3 occupational licensee:

4 (1) For any violation of this chapter;

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

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

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

11 (5) For any other just cause.

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

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

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



1 **§ -15 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 **§ -16 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 a hearing before the
2 commission. A request for a hearing shall be made to the
3 commission in writing within five days after service of notice
4 of the action of the commission. Notice of the actions of the
5 commission shall be served either by personal delivery or by
6 certified mail, postage prepaid, to the aggrieved party. Notice
7 served by certified mail shall be deemed complete on the
8 business day following the date of the mailing. The commission
9 shall conduct all requested hearings promptly and in reasonable
10 order.

11 **§ -17 Conduct of casino gaming.** Casino gaming may be
12 conducted by a licensed operator, subject to the following
13 standards:

- 14 (1) Minimum and maximum wagers on games shall be set by
15 the licensee;
- 16 (2) Agents of the commission may enter and inspect any
17 casino facility at any time for the purpose of
18 determining compliance with this chapter;
- 19 (3) Employees of the commission shall have the right to be
20 present in a casino facility or on adjacent facilities
21 under the control of the licensee;



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



1 one shall be permitted to make a wager under this
2 chapter;

3 (9) All tokens, chips, or electronic cards used to make
4 wagers shall be purchased only from a licensed owner
5 within the casino facility. The tokens, chips, or
6 electronic cards may be purchased by means of an
7 agreement under which the owner extends credit to the
8 patron. The tokens, chips, or electronic cards shall
9 be used while within a casino facility only for the
10 purpose of making wagers on authorized games; and

11 (10) In addition to the above, casino gaming shall be
12 conducted in accordance with all rules adopted by the
13 commission.

14 § -18 Collection of amounts owing under credit

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

21 § -19 Wagering tax; rate. A tax shall be imposed on the
22 gross receipts received from casino gaming authorized under this



1 chapter at the rate of ten per cent. One per cent of the tax
2 revenues shall be used by the commission for a compulsive-
3 gamblers program required to be established pursuant to this
4 chapter and for public security at the gaming facilities. All
5 administrative expenses of the commission shall be paid from the
6 proceeds generated by this tax but shall not exceed one per cent
7 of the tax revenues.

8 **§ -20 The state gaming fund; disposition of taxes**
9 **collected.** There is established within the state treasury the
10 state gaming fund to be administered by the Hawaii gaming
11 control commission, into which shall be deposited all fees,
12 taxes, and fines collected under this chapter. After payment of
13 expenses incurred for the administration and enforcement of this
14 chapter, five per cent of the revenues generated by gaming shall
15 be remitted by the commission on a monthly basis to the city and
16 county of Honolulu to pay for the fixed guideway transportation
17 system on Oahu.

18 **§ -21 Legislative oversight.** (a) Beginning with the
19 fiscal year starting July 1, 2011, the auditor shall conduct a
20 biennial financial and social assessment of gaming operations.
21 In conducting the assessment, the auditor shall identify the
22 financial impacts of gaming on the state economy and the social



1 impacts of gaming upon the community. The auditor shall submit
2 a report of the findings and recommendations to the legislature
3 no later than twenty days prior to the convening of the next
4 regular session after the biennial assessment is completed.

5 (b) Beginning with the fiscal year starting on July 1,
6 2011, the auditor shall conduct a program and financial audit of
7 the Hawaii gaming commission. Thereafter, the auditor shall
8 conduct a program and financial audit every four years after the
9 first audit is completed.

10 § -22 **Compulsive-gambler program.** The commission shall
11 create and implement a program to assist individuals who are
12 identified as compulsive gamblers."

13 SECTION 2. Section 92F-13, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§92F-13 **Government records; exceptions to general rule.**

16 This part shall not require disclosure of:

17 (1) Government records which, if disclosed, would
18 constitute a clearly unwarranted invasion of personal
19 privacy;

20 (2) Government records pertaining to the prosecution or
21 defense of any judicial or quasi-judicial action to
22 which the State or any county is or may be a party, to



- 1 the extent that such records would not be
- 2 discoverable;
- 3 (3) Government records that, by their nature, must be
- 4 confidential [~~in order~~] for the government to avoid
- 5 the frustration of a legitimate government function;
- 6 (4) Government records which, pursuant to state or federal
- 7 law, including an order of any state or federal court,
- 8 are protected from disclosure; [~~and~~]
- 9 (5) Inchoate and draft working papers of legislative
- 10 committees, including budget worksheets and unfiled
- 11 committee reports; work product; records or
- 12 transcripts of an investigating committee of the
- 13 legislature which are closed by rules adopted pursuant
- 14 to section 21-4, and the personal files of members of
- 15 the legislature[-]; and
- 16 (6) Information, records, interviews, reports, statements,
- 17 memoranda, or other data supplied to or used by the
- 18 Hawaii gaming control commission pursuant to
- 19 section -8(e)."

20 SECTION 3. Section 437D-8.4, Hawaii Revised Statutes, is

21 amended by amending subsection (a) to read as follows:

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

3 (1) The general excise tax attributable to the
4 transaction;

5 (2) The vehicle license and registration fee and weight
6 taxes, prorated at 1/365th of the annual vehicle
7 license and registration fee and weight taxes actually
8 paid on the particular vehicle being rented for each
9 full or partial twenty-four-hour rental day that the
10 vehicle is rented; provided the total of all vehicle
11 license and registration fees charged to all lessees
12 shall not exceed the annual vehicle license and
13 registration fee actually paid for the particular
14 vehicle rented;

15 (3) The rental motor vehicle surcharge tax as provided in
16 section 251-2 attributable to the transaction;

17 ~~[(4) The county surcharge on state tax under section
18 46-16.8; provided that the lessor itemizes the tax for
19 the lessee;] and~~

20 ~~[(5)]~~ (4) The rents or fees paid to the department of
21 transportation under concession contracts negotiated
22 pursuant to chapter 102, service permits granted



1 pursuant to title 19, Hawaii Administrative Rules, or
2 rental motor vehicle customer facility charges
3 established pursuant to section 261-7; provided that:

4 (A) The rents or fees are limited to amounts that can
5 be attributed to the proceeds of the particular
6 transaction;

7 (B) The rents or fees shall not exceed the lessor's
8 net payments to the department of transportation
9 made under concession contract or service permit;

10 (C) The lessor submits to the department of
11 transportation and the department of commerce and
12 consumer affairs a statement, verified by a
13 certified public accountant as correct, that
14 reports the amounts of the rents or fees paid to
15 the department of transportation pursuant to the
16 applicable concession contract or service permit:

17 (i) For all airport locations; and

18 (ii) For each airport location;

19 (D) The lessor submits to the department of
20 transportation and the department of commerce and
21 consumer affairs a statement, verified by a



1 certified public accountant as correct, that
2 reports the amounts charged to lessees:
3 (i) For all airport locations;
4 (ii) For each airport location; and
5 (iii) For each lessee;
6 (E) The lessor includes in these reports the
7 methodology used to determine the amount of fees
8 charged to each lessee; and
9 (F) The lessor submits the above information to the
10 department of transportation and the department
11 of commerce and consumer affairs within three
12 months of the end of the preceding annual
13 accounting period or contract year as determined
14 by the applicable concession agreement or service
15 permit.

16 The respective departments, in their sole discretion, may
17 extend the time to submit the statement required in this
18 subsection. If the director determines that an examination of
19 the lessor's information is inappropriate under this subsection
20 and the lessor fails to correct the matter within ninety days,
21 the director may conduct an examination and charge a lessor an
22 examination fee based upon the cost per hour per examiner for

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

12 SECTION 4. Section 46-16.8, Hawaii Revised Statutes, is
 13 repealed.

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

19 ~~(1) No ordinance shall be adopted until the county has~~
 20 ~~conducted a public hearing on the proposed ordinance;~~

21 ~~(2) The ordinance shall be adopted prior to December 31,~~
 22 ~~2005; and~~



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

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

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

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

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

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

22 ~~(1).~~

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

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

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

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

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



1 SECTION 5. Section 237-8.6, Hawaii Revised Statutes, is
2 repealed.

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

21 ~~(b) Each county surcharge on state tax that may be adopted~~
22 ~~pursuant to section 46-16.8(a) shall be levied beginning in the~~



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

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

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



- 1 ~~(1) Gross income or gross proceeds taxable under this~~
2 ~~chapter at the one-half per cent tax rate;~~
- 3 ~~(2) Gross income or gross proceeds taxable under this~~
4 ~~chapter at the 0.15 per cent tax rate; or~~
- 5 ~~(3) Transactions, amounts, persons, gross income, or gross~~
6 ~~proceeds exempt from tax under this chapter.~~

7 ~~(c) The director of taxation shall revise the general~~
8 ~~excise tax forms to provide for the clear and separate~~
9 ~~designation of the imposition and payment of the county~~
10 ~~surcharge on state tax.~~

11 ~~(f) The taxpayer shall designate the taxation district to~~
12 ~~which the county surcharge on state tax is assigned in~~
13 ~~accordance with rules adopted by the director of taxation under~~
14 ~~chapter 91. The taxpayer shall file a schedule with the~~
15 ~~taxpayer's periodic and annual general excise tax returns~~
16 ~~summarizing the amount of taxes assigned to each taxation~~
17 ~~district.~~

18 ~~(g) The penalties provided by section 231-39 for failure~~
19 ~~to file a tax return shall be imposed on the amount of surcharge~~
20 ~~due on the return being filed for the failure to file the~~
21 ~~schedule required to accompany the return. In addition, there~~
22 ~~shall be added to the tax an amount equal to ten per cent of the~~



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

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

14 SECTION 6. Section 238-2.6, Hawaii Revised Statutes, is
15 repealed.

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



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

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

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



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

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

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

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



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

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

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



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

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

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



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

3 SECTION 8. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 9. This Act shall take effect upon its approval;
6 provided that the amendments made by section 3 to section 437D-
7 8.4, Hawaii Revised Statutes, shall not be repealed when that
8 section is repealed and reenacted on December 31, 2022, by
9 section 9(3) of Act 247, Session Laws of Hawaii 2005.

10

INTRODUCED BY:

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Report Title:

Casino Gaming; Funding for Fixed Guideway Transportation System;
Repeal of Excise Tax Increase

Description:

Establishes Hawaii Gaming Control Commission and framework for casino gaming on Oahu. Levies ten per cent tax, of which five per cent is to be remitted to the City and County of Honolulu to fund the fixed guideway transportation system on Oahu. Repeals general excise tax surcharge to fund transit on Oahu.

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

