
A BILL FOR AN ACT

RELATING TO GAMING.

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

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

4 "CHAPTER

5 CASINO GAMING

6 § -1 Limited casino gaming authorized. Casino gaming
7 and a system of wagering incorporated therein, as defined in
8 this chapter, are authorized only to the extent that casino
9 gaming and wagering is conducted in accordance with this
10 chapter. In case of any conflict between this chapter and any
11 other law regarding casino gambling, this chapter shall prevail.
12 This chapter and the rules adopted by the commission shall apply
13 to all persons who are licensed or otherwise participate in
14 gaming as permitted under this chapter.

15 § -2 Definitions. As used in this chapter, unless the
16 context clearly requires otherwise:

17 "Affiliate" means a person who, directly or indirectly,
18 through one or more intermediaries:



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

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

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

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

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

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

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



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

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

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

15 "Commission" means the Hawaii gaming control commission.

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



- 1 (1) Any conduct that would lead a reasonable person,
2 knowing all of the circumstances, to conclude that the
3 member, employee, or agent of the commission is biased
4 against or in favor of an applicant;
- 5 (2) Acceptance of any form of compensation other than from
6 the commission for any services rendered as part of
7 the official duties of the member, employee, or agent
8 for the commission; or
- 9 (3) Participation in any business being transacted with or
10 before the commission in which the member, employee,
11 or agent of the commission or the member's,
12 employee's, or agent's parent, spouse, or child has a
13 financial interest.

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

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



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

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

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

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

19 "Gross receipts":

20 (1) Means the total of:

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



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

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

5 (2) Does not include:

6 (A) Counterfeit money or tokens;

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

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

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

14 "Individual" means a natural person.

15 "Institutional investor" means:

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

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



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

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

8 (5) A closed end investment trust;

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

11 (7) A chartered or licensed financial institution;

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

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

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

22 An investigative hearing shall include any matter related to an



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

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

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

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

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

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



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

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

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



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

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

6 "Waikiki" means that area of Oahu bounded by the Ala Wai
7 Canal, the ocean, and Kapahulu Avenue.

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



1 (b) No person shall be appointed as a member of the
2 commission or continue to be a member of the commission if the
3 person:

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

21 (c) The term of office of a commission member shall be
22 five years. Vacancies in the commission shall be filled for the



1 unexpired term in like manner as the original appointments;
2 provided that the governor shall have thirty days following the
3 occurrence of a vacancy to appoint a successor member to the
4 commission.

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

7 (e) Members of the commission shall:

8 (1) Be a resident of the State;

9 (2) Serve part-time;

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

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

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



1 determination by the commission. The commission shall keep a
2 complete and accurate record of all its meetings.

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

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

- 20 (1) Hold office at the will of the commission;
21 (2) Be exempt from chapters 76 and 89;
22 (3) Devote full time to the duties of the office;



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

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

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



1 jurisdiction of this commission pursuant to this
2 chapter;

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

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

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

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



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

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

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

7 (A) A casino licensee under this chapter or in
8 another jurisdiction; or

9 (B) A potential casino licensee who had an
10 application to operate a casino pending before
11 the commission or any other jurisdiction;
12 except that the person seeking employment may be
13 employed by the commission if the person's interest in
14 a casino licensee would not, in the opinion of the
15 commission, interfere with the objective discharge of
16 the person's employment obligations. A person shall
17 not be employed by the commission if the person's
18 interest in the casino licensee constitutes a
19 controlling interest in that casino licensee; or

20 (2) The person or the person's spouse, parent, child,
21 child's spouse, or sibling, is a member of the
22 commission, or a director of, or a person financially



1 interested in, any person licensed as a casino
2 licensee or casino supplier, or any person who has an
3 application for a casino or occupational license
4 pending before the commission.

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

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

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

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

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

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 the commission for a period of
2 five years after the date of termination of the person's
3 membership on or employment with the commission.

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

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

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



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

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

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

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

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



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



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



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



- 1 (11) Conduct hearings, issue subpoenas for the attendance
2 of witnesses and subpoenas duces tecum for the
3 production of books, records, and other pertinent
4 documents, and to administer oaths and affirmations to
5 the witnesses, when, in the judgment of the
6 commission, it is necessary to administer or enforce
7 this chapter. The executive director or the executive
8 director's designee is also authorized to issue
9 subpoenas and to administer oaths and affirmations to
10 witnesses;
- 11 (12) Eject or exclude, or authorize the ejection or
12 exclusion of, any person from casino facilities where
13 the person is in violation of this chapter or where
14 the person's conduct or reputation is such that the
15 person's presence within a casino facility, in the
16 opinion of the commission, may call into question the
17 honesty and integrity of the casino gaming operation
18 or interfere with the orderly conduct thereof or any
19 other action that, in the opinion of the commission,
20 is a detriment or impediment to the casino gaming
21 operations; provided that the propriety of that



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

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

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

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

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



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



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

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

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

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



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

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

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

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

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

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



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



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

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

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

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

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

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

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



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

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

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



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

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

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



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

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

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

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



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

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

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



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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

16 (2) An employee of the commission; or

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

18 through no intentional action of the employee or agent, the
19 employee or agent shall have up to thirty days to divest or
20 terminate the financial interest. Employment may be terminated
21 if the interest has not been divested after thirty days.



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

3 (cc) As used in this section:

4 "Outside employment" includes the following:

5 (1) Operation of a proprietorship;

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

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

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

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

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

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

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



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

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

7 § -7 **Authorization of limited gaming.** (a) Casino
8 gaming shall only be permitted in one casino facility in the
9 Waikiki. The casino facility shall only be mauka of Kalakaua
10 Avenue. Any application for a casino license to operate the
11 casino facility shall include a casino facility development plan
12 for the casino facility.

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

22 -8. Applications for a casino license shall be submitted to



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

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

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

20 (2) The identity of any business, including, if
 21 applicable, the state of incorporation or
 22 registration, in which the applicant or qualifier has



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

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

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



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



- 1 This statement shall identify the amount of the tax,
2 type of tax, time periods involved, and resolution;
- 3 (8) A statement listing the names and titles of all public
4 officials or officers of any unit of state government
5 or county government in the jurisdiction in which the
6 casino 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 (9) 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;
- 21 (10) A description of the applicant or its qualifiers'
22 history of, or plan for, community involvement or



1 investment in the area where the casino facility will
2 be located; and

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

11 (b) Information provided on the application shall be used
12 as the basis for a thorough background investigation that the
13 commission shall conduct with respect to each applicant and
14 qualifier, but any financial information submitted by each
15 applicant and qualifier shall be kept confidential by the
16 commission. An incomplete application shall be cause for denial
17 of a license by the commission.

18 (c) Applicants shall submit with their application a plan
19 for training residents of the State for jobs that are available
20 at the casino facility. The plan shall take into consideration
21 the need to provide training to low-income persons to enable



1 such persons to qualify for jobs that will be created in the
2 casino facility.

3 (d) Each applicant and qualifier shall disclose the
4 identity of every person, association, trust, or corporation
5 having a greater than five per cent direct or indirect financial
6 interest in the casino gaming operation for which the license is
7 sought. If the disclosed entity is a trust, the application
8 shall disclose the names and addresses of the beneficiaries; if
9 a corporation, the names and addresses of all stockholders and
10 directors; if a partnership, the names and addresses of all
11 partners, both general and limited.

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

18 **§ -9 Criteria for award of a casino license.** (a) The
19 commission shall issue one casino license to operate a casino
20 facility to the applicant that has paid the application fee
21 required under section -8, is eligible and suitable to
22 receive a casino license under this chapter and the rules



1 adopted by the commission, and best satisfies all of the
2 following criteria:

3 (1) The applicant has submitted a casino facility
4 development plan for the casino facility that provides
5 the greatest likelihood that the applicant's casino
6 facility will increase tourism, generate jobs, provide
7 revenue to the local economy, and provide revenue to
8 the general fund;

9 (2) The applicant or its qualifiers have a history of, or
10 a bona fide plan for, community involvement or
11 investment in the area where the casino facility will
12 be located;

13 (3) The applicant has the financial ability to purchase
14 and maintain adequate liability and casualty insurance
15 and to provide an adequate surety bond;

16 (4) The applicant has provided data identifying the
17 applicant's sources of capital and demonstrating that
18 the applicant has adequate capital to develop,
19 construct, maintain, and operate the proposed casino
20 facility;

21 (5) The applicant has adequate capitalization to develop,
22 construct, maintain, and operate, for the duration of



1 the license, the proposed casino facility in
2 accordance with the requirements of this chapter and
3 rules adopted by the commission and to responsibly pay
4 off its secured and unsecured debts in accordance with
5 its financing agreement and other contractual
6 obligations;

- 7 (6) The extent to which the applicant or any of its
8 qualifiers demonstrate that they have at least ten
9 years of experience within the past twenty years in
10 helping to revitalize an urban area by successfully
11 planning, developing, and opening and currently owning
12 and operating a non-governmentally owned, commercial
13 land-based casino in an urban area in any jurisdiction
14 in the United States that previously did not permit
15 casino gaming. For purposes of this paragraph:

16 "Casino means a lawfully operating gaming facility
17 with at least 50,000 contiguous square feet of gaming
18 space that includes at least 1,500 slot machines that
19 are controlled by random number generators; and

20 "Urban area" means a county with a population of
21 at least seven hundred fifty thousand residents;



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

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

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

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

18 (11) To insure the continued integrity of Hawaii collegiate
19 athletics, neither the applicant, nor any parent or
20 subsidiary of the applicant, are licensed in a
21 jurisdiction that permits wagering on Hawaii
22 collegiate athletics;



1 (12) The adequacy of the applicant's plan for training
 2 residents of the State for jobs that are available at
 3 the casino facility and the extent to which the plan
 4 considers the need to provide training to low-income
 5 persons to enable those persons to qualify for jobs
 6 that will be created in the casino facility; and

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

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

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

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



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

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

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

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

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

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

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



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

3 (g) The commission shall establish a process to facilitate
4 and expedite the approval of the necessary licenses and permits.
5 The commission may establish its own procedures for the issuance
6 of liquor licenses for any holder of a casino license under this
7 chapter and the holder of a casino license shall not be subject
8 to any requirement of the Honolulu liquor commission as to the
9 approval of forms of live/professional music, dancing, and
10 entertainment; provided that all other state laws and county
11 ordinances relating to liquor are met. The commission shall be
12 the receiving agency for any environmental assessment required
13 under chapter 343.

14 (h) Nothing in this chapter shall be interpreted to
15 prohibit a casino licensee from operating a school to train
16 occupational licensees.

17 **§ -10 Bond of licensee.** Before a casino license is
18 issued, the licensee shall file a bond in the sum of \$200,000
19 with the department. The bond shall be used to guarantee that
20 the licensee faithfully makes the payments, keeps books and
21 records, makes reports, and conducts games of chance in
22 conformity with this chapter and rules adopted by the



1 commission. The bond shall not be canceled by a surety on less
2 than thirty days' notice in writing to the commission. If a
3 bond is canceled and the licensee fails to file a new bond with
4 the commission in the required amount on or before the effective
5 date of cancellation, the licensee's license shall be revoked.
6 The total and aggregate liability of the surety on the bond
7 shall be limited to the amount specified in the bond.

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

17 (b) The executive director shall provide the applicant or
18 qualifier a reasonable period of time to correct the apparent
19 deficiency and, if the apparent deficiency is not corrected
20 within the reasonable time period, the executive director shall
21 find that the apparent deficiency has not been corrected.

22 Following this finding, the affected applicant or qualifier



1 shall have an opportunity to appeal the executive director's
2 finding to the commission. The commission shall conduct an
3 investigative hearing, pursuant to section -17 and in
4 accordance with rules adopted under this chapter, to determine
5 whether there is sufficient evidence to support an apparent
6 deficiency finding. At the hearing, the burden of proof shall
7 be on the executive director to demonstrate that the finding of
8 an apparent deficiency is supported by law and facts. Any
9 finding by the commission regarding an applicant or a
10 qualifier's apparent deficiency shall not constitute a final
11 determination by the commission as to the suitability of the
12 applicant to hold a license, or the suitability of a qualifier
13 to hold an ownership interest in a casino applicant.

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

19 (d) A qualifier who has been issued a finding of an
20 apparent deficiency shall have the right to request that the
21 commission expand the apparent deficiency hearing under this
22 section to include a determination of the qualifier's



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

12 (1) Make any direct or indirect payments or distributions
13 of revenue or other benefits to the qualifier that are
14 related in any way to the qualifier's interest in the
15 applicant; and

16 (2) Pay any direct or indirect compensation to the
17 qualifier for services rendered to the applicant,
18 unless specifically approved and authorized by the
19 commission.

20 **§ -12 Institutional investor.** (a) Unless the
21 commission determines that an institutional investor is
22 unqualified, an institutional investor holding less than ten per



1 cent of the equity securities or ten per cent of the debt
2 securities of a casino licensee's affiliate or affiliated
3 company that is related in any way to the financing of the
4 casino licensee, shall be granted a waiver of the eligibility
5 and suitability requirements if:

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

11 (2) The securities are those of a publicly traded
12 corporation and its holdings of those securities were
13 purchased for investment purposes only; and

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

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



1 (c) An institutional investor granted a waiver under this
2 section that subsequently intends to influence or affect the
3 affairs of the issuer shall provide notice to the commission and
4 file an application for a determination of eligibility and
5 suitability before taking any action that may influence or
6 affect the affairs of the issuer.

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

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

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

21 (g) If the commission finds that an institutional
22 investor, holding any security of an affiliate or affiliated



1 company of a casino licensee that is related in any way to the
2 financing of the casino licensee, fails to comply with the
3 requirements of this section, or if at any time the commission
4 finds that, by reason of the extent or nature of its holdings,
5 an institutional investor is in a position to exercise a
6 substantial impact upon the controlling interests of a casino
7 licensee, the commission may take any necessary action to
8 protect the public interest, including requiring the
9 institutional investor to satisfy the eligibility and
10 suitability requirements under sections -8, -9, and
11 -10.

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



1 the commission that the licensee continues to meet all of the
2 requirements of this chapter.

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

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

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

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

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

18 (3) The person has knowingly submitted an application for
19 a license under this chapter that contains false
20 information;

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



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



1 (4) Permanently affix its name to all its equipment,
2 devices, and supplies, used for casino gaming
3 operations; and

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

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

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

15 **§ -14 Occupational licenses.** (a) The commission may
16 issue an occupational license to an applicant upon:

17 (1) The payment of a nonrefundable application fee set by
18 the commission;

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

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



1 (b) To be eligible for an occupational license, an
2 applicant shall:

3 (1) Be at least twenty-one years of age if the applicant
4 performs any function involved in casino gaming by
5 patrons. Any applicant seeking an occupational
6 license for a non-gaming function shall be at least
7 eighteen years of age;

8 (2) Not have been convicted of a felony offense in any
9 jurisdiction or a crime involving dishonesty or moral
10 turpitude; and

11 (3) Have met standards for the holding of an occupational
12 license as provided in rules adopted by the
13 commission, including background inquiries and other
14 requirements.

15 (c) Each application for an occupational license shall be
16 on forms prescribed by the commission and shall contain all
17 information required by the commission. The applicant shall set
18 forth in the application whether the applicant:

19 (1) Has been issued prior gaming-related licenses in any
20 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 license issued pursuant to this section shall be
15 valid for a period of one year from the date of issuance and
16 shall be renewable annually upon payment of the annual license
17 fee and a determination by the commission that the licensee
18 continues to meet all of the requirements of this chapter.

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



1 **§ -15 Temporary supplier and occupational licenses.** (a)

2 Upon written request of a person applying for a supplier or
3 occupational license under this chapter, the executive director
4 shall issue a temporary license to the applicant and permit the
5 applicant to undertake employment with, conduct business
6 transactions with, and provide goods and services to, casino
7 licensees, casino license applicants, and holders of
8 certificates of suitability; provided that all of the following
9 provisions are met:

- 10 (1) The applicant has submitted to the commission a
11 completed application, an application fee, and all
12 required disclosure forms and other required written
13 documentation and materials;
- 14 (2) Preliminary review of the application and a criminal
15 history check by the executive director and the
16 commission staff does not reveal that the applicant or
17 the applicant's affiliates, key persons, local and
18 regional managerial employees or sales and service
19 representatives, or substantial owners have been
20 convicted of a felony or misdemeanor that would
21 require denial of the application or may otherwise be



1 ineligible, unqualified, or unsuitable to permit
2 licensure under this chapter;

3 (3) There is no other apparent deficiency in the
4 application that may require denial of the
5 application; and

6 (4) The applicant has an offer of employment from, or
7 agreement to begin providing goods and services to, a
8 casino licensee, casino license applicant, or holder
9 of a certificate of suitability upon receipt of the
10 temporary license or the applicant shows good cause
11 for being granted a temporary license.

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

15 (c) An applicant who receives a temporary license under
16 this section may undertake employment with or supply a casino
17 licensee, casino license applicants, and holders of certificates
18 of suitability with goods and services subject to this chapter
19 until a license is issued by the commission pursuant to the
20 applicant's application or until the temporary license expires
21 or is suspended or revoked. During the period of the temporary



1 license, the applicant shall comply with this chapter and rules
2 adopted by the commission.

3 (d) If the temporary license expires, is not renewed, or
4 is suspended or revoked, the executive director shall
5 immediately forward the applicant's application to the
6 commission for action after first providing a reasonable time
7 for the applicant to correct any apparent deficiency in its
8 application.

9 **§ -16 Annual report.** The commission shall file a
10 written annual report with the governor and the legislature at
11 least sixty days prior to the close of each fiscal year and
12 shall file any additional reports that the governor or the
13 legislature requests. The annual report shall include:

- 14 (1) A statement of receipts and disbursements related to
15 casino gaming pursuant to this chapter;
16 (2) Actions taken by the commission; and
17 (3) Any additional information and recommendations that
18 the commission may deem valuable or which the governor
19 or the legislature may request.

20 **§ -17 Hearings by the commission.** (a) Upon order of
21 the commission, one of the commission members or a hearings
22 officer designated by the commission may conduct any hearing



1 provided for under this chapter related to casino gaming or by
2 commission rule, and may recommend findings and decisions to the
3 commission. The record made at the time of the hearing shall be
4 reviewed by the commission, or a majority thereof, and the
5 findings and decisions of the majority of the commission shall
6 constitute the order of the commission in that case.

7 (b) Any party aggrieved by an action of the commission
8 denying, suspending, revoking, restricting, or refusing to renew
9 a license under this chapter may request in writing a hearing
10 before the commission within five days after service of notice
11 of the action of the commission. Notice of the actions of the
12 commission shall be served either by personal delivery or by
13 certified mail, postage prepaid, to the aggrieved party. Notice
14 served by certified mail shall be deemed complete on the
15 business day following the date of the mailing. The commission
16 shall conduct all requested hearings promptly and in reasonable
17 order.

18 **§ -18 Conduct of casino gaming.** Casino gaming may be
19 conducted by the holder of a casino license, subject to the
20 following:

21 (1) The site of the casino facility shall be restricted to
22 Waikiki, mauka of Kalakaua Avenue;



- 1 (2) The casino facility shall be a stand-alone facility
- 2 and shall not be located within a hotel;
- 3 (3) The term of the casino license shall be twenty years
- 4 and shall be renewable for additional twenty-year
- 5 terms; provided that:
- 6 (A) The casino facility has demonstrated an effort to
- 7 increase tourism, generate jobs, provide revenue
- 8 to the local economy, and provide revenue to the
- 9 general fund;
- 10 (B) The casino licensee's actions have not caused the
- 11 casino license under this chapter to be suspended
- 12 or revoked; and
- 13 (C) The applicant and its qualifiers remain eligible
- 14 and suitable for a casino license;
- 15 (4) The casino facility may operate twenty-four hours per
- 16 day, each and every day of the year;
- 17 (5) Minimum and maximum wagers on games shall be set by
- 18 the casino licensee;
- 19 (6) The commission's agents may enter and inspect the
- 20 casino facility at any time for the purpose of
- 21 determining whether the casino licensee is in
- 22 compliance with this chapter;



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



1 perform any function involved in casino gaming by
2 patrons. No person under age twenty-one shall be
3 permitted to make a wager under this chapter;

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

13 (14) Prior to commencing gaming operations at the casino
14 facility, the casino licensee shall enter into a
15 development agreement with the State that includes at
16 least the following terms:

17 (A) The casino licensee agrees to invest at least
18 \$50,000,000 to develop and construct a casino
19 facility;

20 (B) The casino licensee agrees to use best efforts to
21 train residents of the State for jobs that are
22 available at the casino facility;



1 (C) The casino licensee agrees that neither the
2 casino licensee, nor any parent or subsidiary of
3 the casino licensee, will operate in a
4 jurisdiction that permits wagering on Hawaii
5 collegiate athletics;

6 (D) The casino licensee shall use best efforts to
7 increase tourism, generate jobs, provide revenue
8 to the local economy, and provide revenue to the
9 State; and

10 (E) The casino licensee and the State agree that,
11 other than the one casino facility licensed under
12 this chapter, the State shall not authorize any
13 additional gaming in the State without the prior
14 written consent of the casino licensee and the
15 State; and

16 (15) In addition to the above, casino gaming shall be
17 conducted in accordance with all rules adopted by the
18 commission.

19 **§ -19 Collection of amounts owing under credit**
20 **agreements.** Notwithstanding any other law to the contrary, a
21 casino licensee who extends credit to a wagerer shall be
22 expressly authorized to institute a cause of action to collect



1 any amounts due and owing under the extension of credit, as well
2 as the licensee's costs, expenses, and reasonable attorney's
3 fees incurred in collection.

4 **§ -20 Wagering tax; rate; disposition.** A wagering tax
5 shall be imposed on the monthly gross receipts received from
6 casino gaming authorized under this chapter at the rate of
7 fifteen per cent. The wagering tax imposed by this section
8 shall be in lieu of all other state taxes on gross or adjusted
9 gross receipts, including taxes levied under chapters 237 and
10 239, except income taxes. All other income received by the
11 casino licensee that are not from casino gaming are not subject
12 to the wagering tax, but are subject to any other state taxes on
13 gross or adjusted gross receipts levied under chapters 237 and
14 239. Tax revenues collected under this section shall be
15 deposited into the state general fund; provided that the
16 following amounts shall be retained by the commission and
17 deposited into the state gaming fund for use by the commission
18 as follows:

19 (1) One per cent of the tax revenues to fund a compulsive
20 gamblers program and for public security at the casino
21 facility; and



1 (2) Not more than one per cent of the tax revenues to fund
2 administrative expenses of the commission.

3 **§ -21 State gaming fund; disposition of taxes collected.**

4 There is established within the state treasury the state gaming
5 fund to be administered by the Hawaii gaming control commission
6 into which shall be deposited all fees, taxes, and fines
7 collected under this chapter other than the wagering tax
8 collected pursuant to section -20. Moneys from the state
9 gaming fund shall be used to fund:

10 (1) A compulsive gamblers program and for public security
11 at the casino facility; and

12 (2) Administrative expenses of the commission.

13 **§ -22 Legislative oversight.** After the first full
14 fiscal year of operation, the auditor shall conduct a program
15 and financial audit of the Hawaii gaming commission.

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

18 **§ -23 Compulsive gamblers program.** The commission shall
19 create and implement a program to assist individuals who are
20 identified as compulsive gamblers.

21 **§ -24 Disclosure of information.** (a) The commission,
22 upon written request from any person, shall provide the



1 following information concerning the applicant or licensee, the
2 applicant's or licensee's products, services or gambling
3 enterprises, and the applicant's or licensee's business holdings
4 if the commission has the information in its possession:

5 (1) The name, business address, and business telephone
6 number;

7 (2) An identification of any applicant or licensee
8 including, if an applicant or licensee is not an
9 individual, its state of incorporation or
10 registration, its corporate officers, and the identity
11 of its qualifiers;

12 (3) The name and business telephone number of any
13 attorney, counsel, lobbyist, or any other person
14 representing an applicant or licensee in matters
15 before the commission; and

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

18 **§ -25 License issuance fee.** In addition to any other
19 fee or payment required under this chapter, there shall be a
20 one-time fee of \$150,000,000, in cash or cash equivalent, to be
21 paid as follows:



- 1 (1) \$75,000,000 as a condition precedent to the issuance
- 2 of the casino license; and
- 3 (2) \$75,000,000 one year after the casino license is
- 4 issued.

5 Upon payment of the \$75,000,000 payment due one year after the
6 casino license is issued, the casino licensee shall be credited
7 with this payment against the wagering tax imposed upon the
8 casino licensee under section -20, to be amortized over a
9 period of ten years after that payment is made. The fee shall
10 be deposited into the general fund. Once issued, the license
11 shall be non-transferable and shall be valid only for the person
12 or entity in whose name it was issued and for the operation of
13 the casino facility at the designated place."

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

17 "§712- Casino gaming; exempted. This part shall not
18 apply to casino gaming as authorized by chapter ."

19 SECTION 3. Section 46-80.5, Hawaii Revised Statutes, is
20 amended by amending subsection (e) to read as follows:

21 "(e) Exemptions.



- 1 (1) Property owned by the state or county governments or
2 entities, may be exempt from the assessment except as
3 provided in paragraph (3);
- 4 (2) Property owned by the federal government or entities,
5 shall be exempt from the assessment except as provided
6 in paragraph (3);
- 7 (3) If a public body owning property, including property
8 held in trust for any beneficiary, which is exempt
9 from an assessment pursuant to paragraphs (1) and (2),
10 grants a leasehold or other possessory interest in the
11 property to a nonexempt person or entity, the
12 assessment, notwithstanding paragraphs (1) and (2),
13 shall be levied on the leasehold or possessory
14 interest and shall be payable by the lessee;
- 15 (4) The construction of any casino facility in Waikiki
16 authorized under chapter shall be exempt from the
17 assessment and any special improvement district
18 requirements regarding redevelopment authorized by
19 subsection (a);
- 20 [+4+] (5) The redevelopment of the Ala Wai boat harbor
21 shall be exempt from the assessment and any special



1 improvement district requirements authorized by
2 subsection (a); and
3 [+5+] (6) No other properties or owners shall be exempt
4 from the assessment unless the properties or owners
5 are expressly exempted in the ordinance establishing a
6 district adopted pursuant to this section or amending
7 the rate or method of assessment of an existing
8 district."

9 SECTION 4. There is appropriated out of the general
10 revenues of the State of Hawaii the sum of \$5,000,000 or so much
11 thereof as may be necessary for fiscal year 2012-2013 for the
12 purpose of funding the operations of the Hawaii gaming control
13 commission; provided that the:

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

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



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1 (3) Amount the casino licensee reimburses the State under
2 this section shall also be credited against the
3 wagering tax imposed under section -20, Hawaii
4 Revised Statutes.

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

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

10 SECTION 6. This Act shall take effect on July 1, 2012.

11

INTRODUCED BY:

[Handwritten signatures and marks]
A collection of handwritten signatures and initials, including names like 'Samuel', 'Michelle', 'Karl', and 'Paul', with some lines drawn through them.



H.B. NO. 2788

Report Title:

Stand-Alone Casino Gaming; Waikiki

Description:

Grants twenty-year license for one stand-alone casino in Waikiki not in a hotel. Establishes Hawaii Gaming Control Commission. Imposes fifteen per cent wagering tax on gross receipts. Creates State Gaming Fund and Compulsive Gambler Program. Effective July 1, 2012.

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

