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# A BILL FOR AN ACT

RELATING TO ECONOMIC DEVELOPMENT.

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

1 PART I

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



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

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



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

4 "CHAPTER

5 PEER TO PEER GAMING

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

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

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

16 "Commission" means the Hawaii peer to peer gaming  
17 commission.

18 "Department" means the department of business, economic  
19 development, and tourism.

20 "Executive director" means the executive director of the  
21 commission.



1 "Peer to peer gaming" means the games of poker known as  
2 "Texas Hold 'em" and "Omaha" conducted in a manner by which:

3 (1) Each player receives the player's personal winnings  
4 from the game;

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

7 (3) Play by licensees, directly or indirectly, or by  
8 computer or computer software, is prohibited.

9 § -3 **Hawaii peer to peer gaming commission.** (a) There  
10 is established the Hawaii peer to peer gaming commission, which  
11 shall be a body corporate and a public instrumentality of the  
12 State for the purpose of implementing this chapter. The  
13 commission shall be placed within the department of business,  
14 economic development, and tourism for administrative purposes.  
15 The commission shall consist of seven members to be appointed by  
16 the governor with the advice and consent of the senate under  
17 section 26-34. Of the seven members, two shall be appointed  
18 from a list of nominees submitted by the president of the senate  
19 and two shall be appointed from a list of nominees submitted by  
20 the speaker of the house of representatives. All appointments  
21 to the commission shall be made within sixty days of the  
22 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.



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

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

12 (e) Members of the commission shall:

13 (1) Be a resident of the State;

14 (2) Serve part-time;

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

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

19 (f) Officers of the commission, including the chairperson,  
20 shall be selected by the members. The commission, subject to  
21 chapter 92, shall hold at least one meeting in each quarter of  
22 the State's fiscal year. Special meetings may be called by the



1 chairperson or any four members upon seventy-two hours written  
2 notice to each member. Four members shall constitute a quorum,  
3 and a majority vote of the members present shall be required for  
4 any final determination by the commission. The commission shall  
5 keep a complete and accurate record of all its meetings.

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

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

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



1 (6) Receive an annual salary at an amount set by the  
2 commission, and shall be reimbursed for expenses  
3 actually and necessarily incurred in the performance  
4 of the executive director's duties.

5 (i) Except as otherwise provided by law, the executive  
6 director may:

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

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

13 (A) Is an elected state official;

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

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





1           (D) Has been under indictment, convicted, pled guilty  
2           or nolo contendere, or forfeited bail for a  
3           felony or misdemeanor concerning gambling or  
4           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 hired pursuant to subsection  
11           (i) shall be set by the 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 on which employees are prohibited  
15           from participating in or wagering on any gaming operation  
16           subject to the jurisdiction of the commission. The code of  
17           ethics shall be separate from and in addition to any standards  
18           of conduct set forth pursuant to chapter 84.

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

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



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



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

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

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

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

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

16 (o) A member of the commission, executive director, or key  
17 employee shall not hold direct or indirect interest in, be  
18 employed by, or enter into a contract for service with, any  
19 applicant or person licensed by the commission for a period of  
20 five years after the date of termination of the person's  
21 membership on or employment with the commission.



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

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

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

20 § -4 **Staff.** (a) The executive director shall keep  
21 records of all proceedings of the commission and shall preserve



1 all records, books, documents, and other papers belonging to the  
2 commission or entrusted to its care relating to casino gaming.

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

6 § -5 **Powers of the commission.** The commission shall  
7 have all powers necessary to fully and effectively supervise all  
8 gaming operations, including the power to:

- 9 (1) Administer, regulate, and enforce the system of gaming  
10 established by this chapter. The commission's  
11 jurisdiction shall extend to every person,  
12 association, corporation, partnership, trust, and any  
13 other entity with a financial interest in or holding a  
14 license under this chapter, or required under this  
15 chapter to hold a license in gaming operations in the  
16 State;
- 17 (2) Issue a ten-year gaming license pursuant to this  
18 chapter;
- 19 (3) Determine the types and numbers of occupational and  
20 supplier's licenses to be permitted under this  
21 chapter;



1           (4) Adopt standards for the licensing of all persons under  
2           this chapter subject to the qualifications and  
3           standards set forth herein, to issue licenses, and to  
4           establish and collect fees for these licenses;

5           (5) Provide for the collection of all taxes imposed  
6           pursuant to this chapter, and to collect, receive,  
7           expend, and account for all revenues derived from a  
8           gaming operation within the State;

9           (6) Enter at any time without a warrant and without notice  
10          to a licensee, the premises, offices, facility, or  
11          other places of business of a licensee, or supplier  
12          licensee, where evidence of the compliance or  
13          noncompliance with this chapter or rules is likely to  
14          be found. Entry is authorized to:

15          (A) Inspect and examine all premises wherein gaming  
16          or the business of gaming or the business of a  
17          gaming supplier is conducted, or where any  
18          records of the activities are prepared;

19          (B) Inspect, examine, audit, impound, seize, or  
20          assume physical control of, or summarily remove  
21          from the premises all books, ledgers, documents,  
22          writings, photocopies of correspondence records,



1 videotapes, including electronically stored  
2 records, money receptacles, other containers and  
3 their contents, equipment in which the records  
4 are stored, or other gaming related equipment and  
5 supplies on or around the premises, including  
6 counting rooms;

7 (C) Inspect the person, and inspect, examine, and  
8 seize personal effects present in a facility  
9 licensed under this chapter, of any holder of a  
10 licensed facility; and

11 (D) Investigate and deter alleged violations of this  
12 chapter or rules;

13 (7) Investigate alleged violations of this chapter and to  
14 take appropriate disciplinary action against a  
15 licensee or a holder of an occupational or supplier  
16 license for a violation, or institute appropriate  
17 legal action for enforcement, or both;

18 (8) Be present, through its inspectors and agents, any  
19 time gaming operations are conducted in any venue for  
20 the purpose of certifying compliance with this chapter  
21 and applicable rules, receiving complaints from the  
22 public, and conducting other investigations into the



1           conduct of the gaming as from time to time the  
2           commission may deem necessary and proper;

3           (9) Adopt appropriate standards for a gaming operation;

4           (10) Require that records including financial or other  
5           statements of any licensee under this chapter be kept  
6           in the manner prescribed by the commission and that  
7           any licensee involved in the ownership or management  
8           of gaming operations submit to the commission an  
9           annual balance sheet and profit and loss statement, a  
10          list of the stockholders or other persons having a  
11          five per cent or greater beneficial interest in the  
12          gaming activities of each licensee, and any other  
13          information the commission deems necessary to  
14          effectively administer this chapter;

15          (11) Conduct hearings, issue subpoenas for the attendance  
16          of witnesses and subpoenas duces tecum for the  
17          production of books, records, and other pertinent  
18          documents, and to administer oaths and affirmations to  
19          the witnesses, when, in the judgment of the  
20          commission, it is necessary to administer or enforce  
21          this chapter. The executive director or the executive  
22          director's designee is also authorized to issue





1 subpoenaeas and to administer oaths and affirmations to  
2 witnesses;

3 (12) Prescribe any employment application form to be used  
4 by any licensee involved in the ownership or  
5 management of gaming operations for hiring purposes;

6 (13) Eject or exclude, or authorize the ejection or  
7 exclusion of, any person from facilities where the  
8 person is in violation of this chapter or where the  
9 person's conduct or reputation is such that the  
10 person's presence within a facility, in the opinion of  
11 the commission, may call into question the honesty and  
12 integrity of the gaming operation or interfere with  
13 the orderly conduct thereof or any other action that,  
14 in the opinion of the commission, is a detriment or  
15 impediment to the gaming operations; provided that the  
16 propriety of that ejection or exclusion shall be  
17 subject to subsequent hearing by the commission;

18 (14) Permit a licensee of gaming operations to use a  
19 wagering system whereby wagerers' money may be  
20 converted to tokens, electronic cards, or chips;

21 (15) Suspend, revoke, or restrict licenses, to require the  
22 removal of a licensee or an employee of a licensee for



1 a violation of this chapter or a commission rule, or  
2 for engaging in a fraudulent practice;

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

10 (17) Establish minimum levels of insurance to be maintained  
11 by a licensee;

12 (18) Delegate the execution of any of its powers for the  
13 purpose of administering and enforcing this chapter;  
14 and

15 (19) Adopt rules pursuant to chapter 91 to implement this  
16 chapter. Rules adopted under this chapter shall not  
17 be arbitrary, capricious, or contradictory to the  
18 provisions of chapter 91. Rules may include but need  
19 not be limited to rules that:

20 (A) Govern, restrict, approve, or regulate the gaming  
21 authorized in this chapter;



- 1 (B) Promote the safety, security, and integrity of  
2 gaming authorized in this chapter;
- 3 (C) License and regulate, consistent with the  
4 qualifications and standards set forth in this  
5 chapter, persons participating in or involved  
6 with gaming authorized in this chapter; and
- 7 (D) Take any other action that may be reasonable or  
8 appropriate to enforce this chapter and rules  
9 adopted under this chapter.

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

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

- 16 (1) Affirm that the member or the member's spouse, parent,  
17 child, or child's spouse is not a member of the board  
18 of directors of, financially interested in, or  
19 employed by, a licensee or applicant;
- 20 (2) Affirm that the member continues to meet all other  
21 criteria for commission membership under this chapter  
22 or the rules adopted by the commission;



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

5           (4) Disclose any other information that may be required to  
6           ensure that the integrity of the commission and its  
7           work is maintained.

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

11          (1) Affirm the absence of financial interests prohibited  
12          by this chapter;

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

17          (3) Disclose whether the employee or the employee's  
18          spouse, parent, child, or child's spouse is  
19          financially interested in or employed by a supplier  
20          licensee, or an applicant for a supplier's license,  
21          under this chapter; and



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

4 (c) A member, employee, or agent of the commission who  
5 becomes aware that the member, employee, or agent of the  
6 commission or their spouse, parent, or child is a member of the  
7 board of directors of, financially interested in, or employed by  
8 a licensee or an applicant shall immediately provide detailed  
9 written notice to the chairperson.

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

13 (1) A misdemeanor involving gambling, dishonesty, theft,  
14 or fraud;

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

18 (3) A felony under Hawaii law, the laws of any other  
19 state, or the laws of the United States, or any other  
20 jurisdiction;

21 shall immediately provide detailed written notice of the  
22 conviction or charge to the chairperson.



1 (e) Any member, employee, or agent of the commission who  
2 is negotiating for, or acquires by any means, any interest in  
3 any person who is a licensee or an applicant, or is affiliated  
4 with such a person, shall immediately provide written notice of  
5 the details of the interest to the chairperson. The member,  
6 employee, or agent of the commission shall not act on behalf of  
7 the commission with respect to that person.

8 (f) A member, employee, or agent of the commission shall  
9 not enter into any negotiations for employment with any person  
10 or affiliate of any person who is a licensee or an affiliate and  
11 shall immediately provide written notice of the details of any  
12 such negotiations or discussions to the chairperson. The  
13 member, employee, or agent of the commission shall not take any  
14 action on behalf of the commission with respect to that person.

15 (g) Any member, employee, or agent of the commission who  
16 receives an invitation, written or oral, to initiate a  
17 discussion concerning employment or the possibility of  
18 employment with a person, or affiliate of a person, who is a  
19 licensee or an applicant shall immediately report the invitation  
20 to the chairperson. The member, employee, or agent of the  
21 commission shall not take action on behalf of the commission  
22 with respect to that person.



1           (h) A licensee or applicant shall not knowingly initiate a  
2 negotiation for, or discussion of, employment with a member,  
3 employee, or agent of the commission. A licensee or applicant  
4 who initiates a negotiation or discussion about employment shall  
5 immediately provide written notice of the details of the  
6 negotiation or discussion to the chairperson as soon as that  
7 person becomes aware that the negotiation or discussion has been  
8 initiated with a member, employee, or agent of the commission.

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

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



1 agent of the commission who is offered or receives any gift,  
2 gratuity, compensation, travel, lodging, or anything of value,  
3 directly or indirectly, from any licensee or any applicant or  
4 affiliate or representative of an applicant or licensee shall  
5 immediately provide written notification of the details to the  
6 chairperson.

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

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

21 (m) A member, employee, or agent of the commission who is  
22 approached and offered a bribe in violation of this chapter





1 shall immediately provide a written account of the details of  
2 the incident to the chairperson and to a law enforcement officer  
3 of a law enforcement agency having jurisdiction.

4 (n) A member, employee, or agent of the commission shall  
5 disclose past involvement with any casino interest in the past  
6 five years and shall not engage in political activity or  
7 politically-related activity during the duration of the person's  
8 appointment or employment.

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

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



1 affiliate or representative of an applicant or licensee,  
2 concerning a pending application, license, or enforcement  
3 action.

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

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



1           (s) A new or current employee or agent of the commission  
2 shall obtain written permission from the executive director  
3 before continuing outside employment held at the time the  
4 employee begins to work for the commission. Permission shall be  
5 denied, or permission previously granted shall be revoked, if  
6 the nature of the work is considered to, or does create, a  
7 possible conflict of interest or otherwise interferes with the  
8 duties of the employee or agent for the commission.

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

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

18           (v) The chairperson shall report any action the  
19 chairperson has taken or contemplates taking under this section,  
20 with respect to an employee or agent or former employee or  
21 former agent, to the commission at the next meeting of the



1 commission. The commission may direct the executive director to  
2 take additional or different action.

3 (w) No member, employee, or agent of the commission may  
4 participate in or wager on any gambling game conducted by any  
5 licensee or applicant or any affiliate of an applicant or  
6 licensee in the State or in any other jurisdiction, except as  
7 follows:

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

14 (2) A member, employee, or agent of the commission shall  
15 advise the chairperson at least twenty-four hours in  
16 advance if the person plans to be present in a casino  
17 in another jurisdiction, operated by a licensee,  
18 applicant, or affiliate of a licensee or applicant,  
19 outside the scope of their official duties for the  
20 commission.

21 (x) Violation of this section by a licensee, applicant, or  
22 affiliate or representative of a licensee or applicant, may



1 result in denial of the application of licensure or revocation  
2 or suspension of license or other disciplinary action by the  
3 commission.

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

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

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

15 (2) If, after being offered employment or having begun  
16 employment with the commission, the employee or agent  
17 intentionally acquires a financial interest in a  
18 licensee or an applicant, or affiliate or  
19 representative of a licensee or applicant.

20 (aa) If a financial interest in a licensee or an  
21 applicant, or affiliate or representative of a licensee or  
22 applicant, is acquired by:



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

3 (2) An employee of the commission; or

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

9 (bb) Violation of this section does not create a civil  
10 cause of action.

11 (cc) As used in this section:

12 "Outside employment" includes the following:

13 (1) Operation of a proprietorship;

14 (2) Participation in a partnership or group business  
15 enterprise; or

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

19 "Political activity" or "politically related activity"  
20 includes any of the following:



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

16 § -7 **Rules.** The commission shall adopt rules pursuant  
17 to chapter 91 necessary for the purpose of this chapter."

18 SECTION 3. Section 712-1220, Hawaii Revised Statutes, is  
19 amended by amending the definition of "contest of chance" to  
20 read as follows:

21 "(3) "Contest of chance" [~~means any~~]:







1 the State to address its needs is to adopt a licensing regime  
2 for peer-to-peer internet gaming. Unlike traditional internet  
3 gaming in which players play against a computerized house  
4 similar to video poker machines in destinations like Las Vegas,  
5 peer-to-peer internet gaming involves human players competing  
6 against other players from around the world in a virtual gaming  
7 room that is hosted by the licensed site. Because of Hawaii's  
8 time zone position relative to those in Asia and the continental  
9 western hemisphere, peer-to-peer gaming sites situated in Hawaii  
10 permit same day processing of financial transactions arising  
11 from game play.

12 The legislature also find that while there are no cases on  
13 point, legal opinions have reasoned that, because these sites  
14 consist of competition in games of skills between human players  
15 and not in games of chance that are now not prohibited under  
16 Hawaii's anti-gambling statutes, this type of gaming would not  
17 violate the federal Unlawful Internet Gaming Enforcement Act.  
18 Additionally, the legislature finds that federal cases do not  
19 interpret the federal Wire Act to prohibit the transfer of funds  
20 that one may have earned through these human-to-human  
21 competitions from the licensed host to the players' bank  
22 account. The legislature finds that the State could realize



1 substantial revenue through a robust licensing fee and wager  
2 service hosting fees. Because these internet competitions are  
3 conducted primarily with players from Asia, the mainland United  
4 States, and other parts of the world outside Hawaii, the social  
5 ills and stigma associated with gambling would not be visited  
6 upon Hawaii residents nor would the resources required to combat  
7 the social ills inherent in gambling be necessary.

8 The purpose of this Act is to establish a regulatory  
9 framework for the conduct of internet based peer-to-peer games  
10 of skill to be hosted in Hawaii.

11 SECTION 5. The Hawaii Revised Statutes is amended by  
12 adding ??? new sections to be appropriately designated and to  
13 read as follows:

14 § **-A Authorization of limited peer to peer internet**

15 **gaming.** (a) Peer to peer internet gaming shall only be  
16 permitted as provided in this part. Any application for a  
17 casino license to operate the casino facility shall include a  
18 casino facility development plan for the casino facility.

19 (b) The Hawaii peer to peer gaming commission shall adopt  
20 the necessary rules and make applications available for a  
21 licensee to begin peer to peer internet gaming operations within  
22 one hundred twenty days of its appointment. Applications for a



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

9       **§ -8 Application for a peer to peer internet gaming**  
10 **license.** (a) A person, including qualifiers, may apply to the  
11 commission for a peer to peer internet gaming license to conduct  
12 a peer to peer internet gaming operation in the State. The  
13 application shall be made under oath on forms provided by the  
14 commission and shall contain information as prescribed by the  
15 commission, including all of 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) An identification 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. The applicant or qualifier may comply  
9 with this paragraph by filing a copy of the  
10 applicant's or qualifier's registration with the  
11 Securities Exchange Commission if the registration  
12 contains the information required by this paragraph;

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



- 1           (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 or codifying  
9           authority, the date each action was taken, and the  
10          reason for each action;
- 11          (5) Whether the applicant or qualifier within the last ten  
12          years, has 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 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; and

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.

21 (b) Information provided on the application shall be used  
22 as the basis for a thorough background investigation that the



1 commission shall conduct with respect to each applicant and  
2 qualifier. An incomplete application shall be cause for denial  
3 of a license by the commission.

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

13 (d) An application fee of \$5,000 shall be paid to the  
14 commission by an applicant at the time of filing to defray the  
15 costs associated with an applicant and qualifier's background  
16 investigation conducted by the commission. If the costs of the  
17 investigation exceed \$5,000, the applicant shall pay the  
18 additional amount to the commission. If the costs of the  
19 investigation are less than \$5,000, the applicant shall receive  
20 a refund of the remaining amount. All information, records,  
21 interviews, reports, statements, memoranda, or other data  
22 supplied to or used by the commission in the course of its



1 review or investigation of an application for a license shall be  
2 confidential, used only for the purpose of evaluating an  
3 applicant, and exempt from public disclosure required by chapter  
4 92F, and shall not be admissible as evidence, nor discoverable  
5 in any action of any kind in any court or before any tribunal,  
6 commission, agency, or person, except for any action deemed  
7 necessary by the commission.

8 (e) An applicant shall be ineligible to receive a casino  
9 license if:

- 10 (1) The applicant 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 applying for a license employs  
21 a person described in paragraph (1), (2), (3), or (4)





1           who participates in the management or operation of  
2           gaming operations authorized under this chapter; or  
3       (6)   A license of the applicant issued under this chapter,  
4           or a license to own or operate gaming facilities in  
5           any other jurisdiction, has been revoked.

6       §   -9   **License amount; disposition.**   The commission shall  
7   award a license to operate a peer to peer internet gaming  
8   operation pursuant to chapter 103D to the two applicants who are  
9   the highest bidders for a license; provided that the minimum bid  
10   shall be \$100,000,000. All licensee fees shall be deposited  
11   into the general fund.

12       §   -10   **Rules.**   The commission shall adopt rules pursuant  
13   to chapter 91 necessary for the purpose of this chapter."

14       SECTION 6.   (a)   The peer-to-peer gaming commission  
15   established under part I of this Act shall adopt rules pursuant  
16   to chapter 91 necessary to provide for the infrastructure  
17   necessary to operate internet-based peer-to-peer gaming from  
18   Hawaii.

19       (b)   The rules established under subsection (a) shall  
20   provide, at a minimum, for the following:

21   (1)   Issuance of licenses to not more than two operators of the  
22   infrastructure necessary to host the games pursuant to chapter



1 103D, Hawaii Revised Statutes, for a minimum fee of one hundred  
2 million dollars per year and twenty per cent of total wagers;

3 (2) A process to ensure that play is conducted only between  
4 live participants and not by computers, computer software, or by  
5 agents of the licensee; and

6 (3) Advertising on the gaming web sites to be provided free of  
7 charge to the State for tourism promotion and for licensing by  
8 the State of any other advertising.

9 SECTION 7. If any provision of this Act, or the  
10 application thereof to any person or circumstance is held  
11 invalid, the invalidity does not affect other provisions or  
12 applications of the Act, which can be given effect without the  
13 invalid provision or application, and to this end the provisions  
14 of this Act are severable.

15 SECTION 8. This Act does not affect rights and duties that  
16 matured, penalties that were incurred, and proceedings that were  
17 begun before its effective date.

18 SECTION 9. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

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



**S.B. NO.** 755  
S.D. 2  
H.D. 1  
Proposed



**Report Title:**

Gambling; Peer-to-Peer Gaming

**Description:**

Authorizes peer-to-peer games of skill, including poker, in which each player receives the player's personal winnings from the game but in which no other person or entity derives any proceeds based on the outcome of the game. Permits licensed venue to charge fee to participate in game or percentage of total wagers in game, or both. Authorizes issuance of not more than two licenses to operate infrastructure for online peer-to-peer games of skill for a minimum fee of \$100 million per year, 20% of total wagers, and advertising for State. Prohibits licensee from participating, directly or indirectly in games and prohibits participation by computer. Establishes Peer-to-Peer Gaming Commission. Effective 7/1/2012. (HD1 PROPOSED)

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

